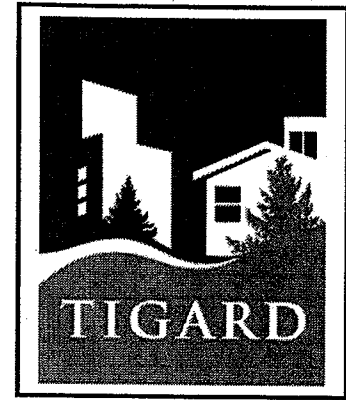




TIGARD CITY COUNCIL
MEETING

April 11, 2006 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are estimated; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. Business agenda items can be heard in any order after 7:30 p.m.

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A
TIGARD CITY COUNCIL MEETING
APRIL 11, 2006

6:30 PM

• STUDY SESSION

- > DISCUSS REQUEST FOR A CONTRIBUTION TO SPONSOR THE JUNE 3, 2006, TUALATIN RIVER NATIONAL WILDLIFE GRAND OPENING CEREMONY
 - ♦ Staff Report: Community Development Staff
 - > REVIEW PROPOSED AMENDMENT TO THE TIGARD MUNICIPAL CODE TO ALLOW MUFFLED COMPRESSION BRAKES (See also Agenda Item No. 6)
 - ♦ Staff Report: Community Development Staff
 - > CONSIDER PROPOSALS FOR POLICE PATCH DESIGNS
 - ♦ Staff Report: Police Staff
 - > DISCUSS CITY MANAGER PERFORMANCE REVIEW PROCESS
- EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

7:30 PM

1. BUSINESS MEETING

- 1.1 Call to Order - City Council & Local Contract Review Board
- 1.2 Roll Call
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports
- 1.5 Call to Council and Staff for Non-Agenda Items

2. PROCLAMATIONS

- 2.1 Proclaim April 13, 2006, as Arbor Day
- 2.2 Proclaim April 17-23, 2006, as Community Development Week
- 2.3 Proclaim April 23-30, 2006, as Days of Remembrance – “From Liberation to the Pursuit of Justice”
 - Mayor Dirksen

3. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- Tigard High School Student Envoy Krista Foltz
- Tigard Area Chamber of Commerce Representative
- Follow-up to Previous Citizen Communication

4. CONSENT AGENDA: These items are considered to be routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

- 4.1 Approve Council Minutes for February 28, 2006
- 4.2 Receive and File:
 - a. Council Calendar
 - b. Tentative Agenda
- 4.3 Approve Extending the Current Terms of the Budget Committee Members for an Additional Six Months to Coincide with the Annual Budget Process – Resolution No. 06-_____
- 4.4 Approve Amendment No. 1 to the Greenburg Road Project Agreement with the Oregon Department of Transportation (ODOT) and Authorize the Mayor and City Recorder to Sign
- 4.5 Approve Intergovernmental Agreement (IGA) with Clean Water Services (CWS) for Fanno Creek and Hiteon Creek Enhancement Projects and Authorize the Mayor to Sign
- 4.6 Local Contract Review Board
 - a. Award Contract for Audit Services to Grove, Mueller & Swank, P.C.
- *Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council has voted on those items which do not need discussion.*

5. CONSIDER GRANTING AN EXEMPTION FROM PROPERTY TAXES UNDER TIGARD MUNICIPAL CODE SECTION 3.50 FOR THREE NON-PROFIT LOW-INCOME HOUSING PROJECTS OWNED AND OPERATED BY COMMUNITY PARTNERS FOR AFFORDABLE HOUSING (CPAH) AND ONE HOUSING PROJECT OPERATED BY TUALATIN VALLEY HOUSING PARTNERS (TVHP)

- a. Staff Report: Finance Staff
- b. Council Discussion
- c. Council Consideration: Resolution No. 06-_____

6. CONSIDER AMENDING SECTION 7.40.170.A OF THE TIGARD MUNICIPAL CODE TO PERMIT MUFFLED COMPRESSION BRAKES
 - a. Staff Report: Community Development Staff
 - b. Council Discussion
 - c. Council Consideration: Ordinance No. 06-_____
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10. ADJOURNMENT

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AGENDA ITEM # _____
FOR AGENDA OF 4/11/06

CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD
AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Refuge Grand Opening Ceremony Sponsorship Contribution

PREPARED BY: Duane Roberts DEPT HEAD OK TR CITY MGR OK cl

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Should the City contribute \$1,500 (or a different amount) to sponsor the June 3, 2006, Tualatin River National Wildlife Grand Opening Ceremony?

STAFF RECOMMENDATION

Staff recommends Council authorize the reallocation in the amount of \$1,500.

INFORMATION SUMMARY

On June 3, 2006, the Tualatin River National Wildlife Refuge will celebrate the completion of the first phase of visitor use facilities and its official opening to the public with a day of festivities involving a ribbon cutting ceremony and wildlife tours. The celebration will continue with more tours on June 4th. Headlining the honorary grand opening committee, among other dignitaries, are former Senator Mark Hatfield, Congressman David Wu, County Commissioner Chair Tom Brian, and Tigard Mayor Craig Dirksen. The City's prior involvement in the Refuge includes a Council-authorized letter sent to the Oregon congressional delegation in support of federal funding for Refuge visitor facilities.

The budget for the grand opening festivities is \$9,200. The Friends of the Refuge is the event organizer. Federal statutes preclude the use of federal agency dollars to fund activities of this nature. The Friends group is soliciting public and private hard dollar and in-kind contributions toward the cost of the event.

Members of the Friends group will be present at the meeting to discuss their plans for the grand opening ceremony and to answer any questions Council may have.

OTHER ALTERNATIVES CONSIDERED

Do not contribute or contribute a different amount to the ceremony.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

A sponsorship contribution would relate to the Council Goals of "Improve Communication and Relationship with Citizens" by demonstrating the City's commitment to quality of life improvements.

ATTACHMENT LIST

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Attachment #1: Memo to Council from Tom Coffee.

Attachment #2: Map of the Tualatin River National Wildlife Refuge

Attachment #3 Correspondance from Jim Rapp

FISCAL NOTES

This contribution will be funded by a contingency transfer in the General Fund to the Social Services and Community Events budget. If approved, the Finance Department will return to Council with a budget amendment on April 25, 2006.



MEMORANDUM

TO: Council

FROM: Tom Coffee

RE: City Financial Contribution to Tualatin River National Wildlife Refuge

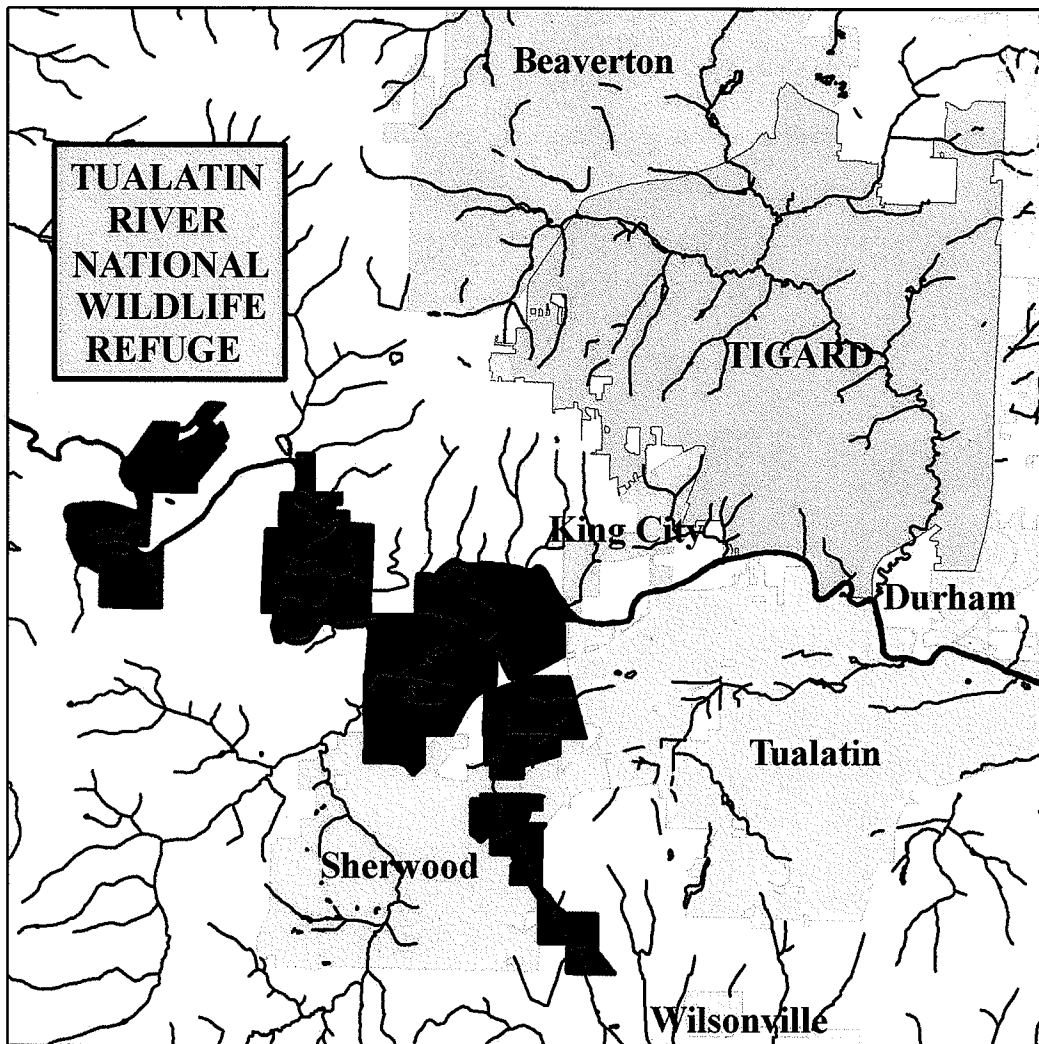
DATE: 3/27/06

On June 3rd, the Refuge will celebrate the completion of the first phase of visitor use facilities and its official opening to the public with a day of festivities involving a ribbon cutting ceremony and wildlife tours. The celebration will continue with more tours on June 4th. Headlining the honorary grand opening committee, among other dignitaries, are former Senator Mark Hatfield, Congressman David Wu, County Commissioner Chair Tom Brian, and Tigard Mayor Craig Dirksen. The City's prior involvement in the Refuge includes a Council-authorized letter, under Mayor Dirksen's signature, sent to the Oregon congressional delegation in support of federal funding for Refuge visitor facilities.

The budget for the grand opening festivities is \$9,200. The Friends of the Refuge is the event organizer. Federal statutes preclude the use of federal agency dollars to fund events of this nature. The Friends group is in the process of soliciting contributions from the public and private sectors and has donated \$2,500 of its own limited funds to the event. So far, among the jurisdictions who have contributed, Metro has pledged \$500, Clean Water Services \$1,000, Sherwood \$1,500, and Tualatin \$1,500. Private sector donors include PGE, Home Depot, and others. At present, the funding gap is approximately \$2,500.

Why is the Tualatin River National Wildlife Refuge important to the Tigard community?

- As a wild place, the Refuge will preserve precious habitat and open space along the western edge of the Tigard urban area.
- The refuge will provide a range of close-to-home recreational, educational, and volunteer opportunities for Tigard-area residents. In future, Refuge-related recreational activities could include pedestrian and bicycle linkages between the Refuge and the proposed Powerline Trail, designed to run from Barrows Road to the Tualatin River.
- The refuge will economically benefit the City. Many Refuge visitors who live outside the city will spend their recreational money in the local economy.





Friends Of the Refuge

Tualatin River National Wildlife Refuge

PO Box 1306, Sherwood, OR 97140 Voice Mail 503.972.7714
www.friendsoftualatinrefuge.org

February 24, 2006

Duane Roberts
City of Tigard
13125 SW Hall Blvd
Tigard, Oregon 97223

**RE: City of Tigard Sponsorship
Tualatin River National Wildlife Refuge Grand Opening Celebration**

Dear Duane:

As per my prior conversations with you and with Barbara Shields, and on behalf of the Friends of the Refuge, I would like to ask the City of Tigard to become a major sponsor of the Grand Opening Celebration for the Tualatin River National Wildlife Refuge. Fifteen years after the Refuge idea was first put forward by the citizens and City Council of Sherwood, visitor facilities are under construction with Phase I to be complete in the next few months. The Grand Opening is scheduled for Saturday, June 3, 2006 at the Refuge's Steinborn Unit off of Highway 99W just north of Sherwood. We would like the City of Tigard to consider support in the amount of \$2,500.00. We are also delighted to already have Tigard Mayor Craig Dirksen's consent to serve on the Honorary Committee for the Refuge Grand Opening Celebration.

The Refuge is a major regional open space, providing habitat for waterfowl, fish, and wildlife in the Tualatin River Basin. In addition, one the primary motivations of the Sherwood City Council in initiating the campaign for the Refuge back in 1990 was a concern for preserving riparian areas and floodplains along the Tualatin River for water quality and storm water management purposes.

I have attached a two-page summary describing the history of the Refuge and the planned Refuge Grand Opening event, and a Grand Opening budget, for your consideration. Please let me know if there is other information or assistance I can offer in helping the City of Tigard to support this amazing community resource. I can be reached at 503-515-1598 or 3113 NE Skidmore Street, Portland 97211.

Sincerely,

Jim Rapp
Co-chair, TRNWR Grand Opening Celebration

Tualatin River National Wildlife Refuge Grand Opening Celebration June 3 & 4, 2006

The Tualatin River National Wildlife Refuge is one of America's few "urban" refuges, and grew from an idea first promoted in 1990 by the City of Sherwood, Oregon and its citizens. The first land acquisition for the Refuge occurred in 1992. Today, 1,358 acres of the eventual 3,060 acre Refuge are managed by the U.S. Fish and Wildlife Service – consisting of private donations of land, land purchases from willing sellers, and a co-management agreement for 50 acres of Metro regional greenspaces within the Refuge boundary. From its inception, the Refuge has been a unique partnership between the local Sherwood community, Federal and State agencies, Oregon's Congressional delegation, surrounding local jurisdictions, regional agencies, business groups, and local and national non-profits. The Refuge's story is one of broad based support spanning governments, businesses, and citizens of all stripes and persuasions. These partners are witness to a common goal of preserving wetlands, floodplains and riparian corridors, and the wildlife and birds that live in and migrate through the Tualatin River Basin, in the midst of the urbanizing Portland metropolitan area.

Recently, the story of this community-based national wildlife refuge entered a new chapter. Congressional funding was secured to build visitor facilities just off State Highway 99W in the Refuge's "Steinborn Unit", the largest contiguous parcel in the Refuge at present. Phase I will be completed in the spring of 2006 and provide for safe access from Highway 99W, parking facilities, site utilities, and trails and interpretive facilities for visitors. A Refuge Visitor Center and offices will be open in 2007. With this development, the Refuge will take its long anticipated place among the most important publicly accessible natural areas in Metropolitan Portland and Northwest Oregon.

In celebration of a community dream that has been over 15 years in the making, a Grand Opening Celebration is planned for June 3 & 4, 2006. Members of Sherwood's and Oregon's former and present Congressional delegation are expected to attend, along with former and present city and County officials, regional and local business leaders, non-profit executives, local citizens and Refuge advocates, and Federal and State agency managers who contributed to the Refuge's success.

On June 3, 2006, at 12:30 p.m., the Refuge will be officially opened with a ceremonial ribbon cutting and nature walk for local government and business leaders, members of Congress, and citizen advocates who have worked for 15 years to make the Refuge a reality. Free public guided tours of the Steinborn Unit of the Refuge (on the north side of State Highway 99W between King City and Sherwood) will start at 1:30 p.m. on Saturday, and continue through Sunday, June 4 from 7:00 a.m. to 4:00 p.m. Thereafter, trails and interpretive facilities in the Steinborn Unit will be generally open to the public from dawn to dusk on a year-round basis.

The Tualatin River National Wildlife Refuge Grand Opening Celebration is sponsored with generous contributions from Portland General Electric, the City of Sherwood, Clean Water Services, Metro, Norton-Arnold & Company, the Friends of the Refuge, and the U.S. Fish and Wildlife Service. Additional support is provided by Drs. Geoff Beasley and James Sampson, Sherwood Chamber of Commerce, and the Tualatin River Watershed Council

Please join us in celebrating this community milestone.

TRNWR Grand Opening Celebration - June 3 & 4, 2006

Saturday, June 3

- 9:30 - 11:00 AM Special "Honored Guests" Only Brunch & Awards for "Most Notable" Honored Guests – by invitation-only brunch will be held at a private Sherwood residence.
- 11:30 AM - 12:30 PM Opening Ceremony & Speeches @ Refuge's Steinborn Unit (Highway 99W)
- 12:30 - 1:30 PM Ribbon Cutting, followed by Ceremonial "First" Nature Walk of Steinborn Unit
(*First Nature Walk for Honored Guests Only*)
- 1:30 - 4:30 PM Public Tours of Steinborn Unit – Tour on your own, or join FREE small group tours led by expert birders from the Audubon Society of Portland, U.S. Fish and Wildlife Service, Oregon Field Ornithologists, and the Friends of the Refuge.

Sunday, June 4

Continued individual and small group public tours of Steinborn Unit (off of Highway 99W between King City and Sherwood). The unit will be open for public access from dawn to dusk. Free small group tours led by expert birders will be available on a drop-in basis every 60 minutes from 7:00 A.M. to 4:00 P.M.

Honorary Grand Opening Committee

Les AuCoin	Member of Congress (retired)
David Bragdon	President, Metro
Tom Brian	Chair, Washington County Board of Commissioners
Mark Christie	Chair, Sherwood 88J School District Board of Directors
Craig Dirksen	Mayor, City of Tigard, Oregon
Chuck Fais	Mayor, City of King City, Oregon
Peggy Fowler	Chief Executive Officer, Portland General Electric
Mark Hatfield	United States Senator (retired)
Jim Haynes	President, Sherwood Chamber of Commerce
Sue Marshall	Executive Director, Tualatin Riverkeepers
Keith Mays	Mayor, City of Sherwood, Oregon
Lou Ogden	Mayor, City of Tualatin, Oregon
Norma Oyler	Former Mayor, City of Sherwood, Oregon
Meryl Redisch	Executive Director, Audubon Society of Portland
Gordon Smith	United States Senator
David Wu	Member of Congress
Ron Wyden	United States Senator

Celebration Sponsors

City of Sherwood, Oregon
Clean Water Services
Friends of the Refuge
Metro
Norton-Arnold & Company
Portland General Electric
U.S. Fish and Wildlife Service

Celebration Supporters

Drs. Geoff Beasley & James Sampson
Sherwood Chamber of Commerce
Tualatin River Watershed Council

Event Budget

Tualatin River National Wildlife Refuge

Grand Opening

June 3 and 4, 2006

Honored Guests Brunch (off-Refuge activity)	\$1,500.00
Costs: Food and beverage, rented table service, tables/chairs; associated	
Note: Caterer has agreed to stage this activity at-cost; City of Sherwood will provide event tent at no charge; USFWS will provide A/V at no charge	
Food and Beverage (on-Refuge activities)	\$250.00
Costs: "Hospitality" food and beverage for event volunteers (Saturday and Sunday); cake and serving supplies for dedication and ribbon cutting ceremony (Saturday only)	
Note: General food service will be outsourced to a non-profit vendor	
General Equipment (on-Refuge activities)	\$850.00
Costs: Tables/chairs, stage riser, and porta-potties rentals; signage easels, etc.; associated site preparation labor	
Note: USFWS will provide podium and event tents at no charge	
A/V Equipment	\$350.00
Costs: Sound equipment rentals and operating services; portable power and sound insulating hay bales	
General Design and Printing	\$1,150.00
Costs: save-the-date postcard, invitations, full color promotional poster, programs, name tags, press kit, event directional and promotional signage	
Note: Friends of Refuge member will provide most or all print materials design services at no charge	
Tri-Met Printing	\$1,200.00
Costs: printing of "bus side" and bus stop bench promotional advertising	
Note: Tri-Met is providing advertising space at the equivalent of approx. \$10,000	
Postage and Shipping	\$100.00
Costs: for hold-the-date postcards and invitation; and miscellaneous	
Transportation	\$350.00
Costs: Bus shuttle for event visitors from nearby Home Depot to Refuge HQ site (Saturday only – Refuge HQ parking lot will be open to public on Sunday)	
Note: Home Depot will partition portion of parking lot for event parking and bus loading at no charge	
Publicity	\$650.00
Costs: Event day photographer; "thank you" ad in major regional newspaper	
Gifts and Awards	\$1,700.00
Costs: Framed Refuge photographs with memorial plaques for key honored guests; event memento for all honored guests;	
Travel	\$500.00
Costs: Limited reimbursement for travel costs of key honored guests from outside of region	
Decorations	\$100.00
Costs: Ribbons and other decoration for event tent and speakers riser and podium; ribbon and oversized scissors for ribbon cutting	
Contingency	\$500.00
Costs: cash backfill if expected in-kind support that replaces cash expenditures doesn't materialize	

Total Event Budget:

\$9,200.00

AGENDA ITEM # _____
FOR AGENDA OF _____

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Amend Tigard Municipal Code to Permit Muffled Compression Brakes

PREPARED BY: Tom Coffee DEPT HEAD OK TC CITY MGR OK CR

ISSUE BEFORE THE COUNCIL

Request by Tualatin Valley Fire and Rescue to amend the Tigard Municipal Code to permit muffled compression brakes.

STAFF RECOMMENDATION

Staff recommends adoption of the attached ordinance.

INFORMATION SUMMARY

Section 7.40.170.A of the Tigard Municipal Code currently prohibits the use of exhaust brakes (jake brakes) in the City of Tigard due to the loud noise they produce. Tualatin Valley Fire and Rescue no longer uses the traditional jake brakes and has installed muffled compression brakes on their emergency vehicles. TVF&R has worked with the other cities in their service district to obtain permission to use the muffled compression brakes to save money on vehicle maintenance.

OTHER ALTERNATIVES CONSIDERED

Do not amend the Code.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The community residents, business owners, and service providers will understand their roles through effective communications to successfully enhance public safety and emergency services.

ATTACHMENT LIST

Attachment 1: Background Information Provided by TVF&R.

Attachment 2: Proposed Ordinance.

FISCAL NOTES

N/A

Noise & Compression Brake Review

Tualatin Valley Fire & Rescue (TVF&R) conducted a District wide review of compression braking and noise ordinances pertaining to them. Below is a summary (table 1) of that review;

Secondary braking devices are important auxiliary systems that have been adopted as a "best practice" for the trucking industry as well as the fire service. The average gross vehicle weight for a fully equipped engine at Tualatin Valley Fire & Rescue is at, or above 42,000. Increasing weight make even non-emergent braking a significant factor in vehicle interaction on public roadways.

The United States Environmental Protection Agency requires that all heavy-duty trucks, including fire apparatus, emit no more than 80 dB(A) at fifty (50) feet while operating, and that figure includes their compression braking systems. As demonstrated in the review (table 2), TVF&R fire apparatus using muffled compression brakes met that standard and emitted less noise than commonly used gas powered lawn mowers or leaf blowers

The State of Oregon prohibits the use of unmuffled compression braking systems. All TVF&R apparatus come from the manufacturer meeting noise emission standards from the EPA and are muffled compression braking systems.

Tualatin Valley Fire & Rescue deploys their fire units in a dynamic fashion. The result is fire companies normally located outside the City, are on a regular basis, traveling into the city for coverage, public events, etc.

Those units from outside the City of Tigard will use different response routes based on the direction they are entering the city limits. This applies to both emergent and non-emergent travel. . In addition, TVF&R fire apparatus, unlike heavy-duty trucks, are expected to drive on "typical" city streets and must regularly operate in and around normal traffic rather than taking standard truck routes.

Currently four (4) cities served by TVF&R prohibit the use of compression brakes through noise ordinances. Two (3) of those cities provide exemptions in their ordinances for noise associated with public safety work.

Based on the review TVF&R recommends the following exemption to the City of Tigard Code 7.40.150.

.....The following sounds or noise producing actions are to be exempted:

Sounds produced by the performance of public workers, vehicles, or equipment, including police, fire and ambulance.

Table 1

Jurisdiction	Prohibited?	Ordinance/ORS #	Exempt?	Ordinance #
Beaverton	Yes	6.02.215	Yes	4346
King City	No	ORS 811.492	n/a	n/a
Sherwood	Yes	9.52.030, Sect. B1	Yes	9.52.050, Sect. G
Tigard	Yes	7.40.150	No	n/a
Tualatin	No	ORS 811.492	n/a	n/a
West Linn	Yes	5.487	Yes	5.487, #5
Wilsonville	No	ORS 811.492	n/a	n/a
Clackamas County	No	ORS 811.492	n/a	n/a
Washington County	No	ORS 811.492	n/a	n/a

Table 2

Nuisance	Decibel Level (db) at 50'	Source
Chain Saw	110	http://dbw.da.gov
Noisy Motorcycle	100	http://dbw.da.gov
Leaf Blower	94	http://nylon.trashfish.net
Heavy Truck (Semi-Trailer)	90	http://dbw.da.gov
Gas-powered Lawn Mower	90	http://fpl.com
Normal Boat	80	http://dbw.da.gov
Quiet Motorcycle	80	http://dbw.da.gov
TVF&R Fire Apparatus	80	TVF&R Shop
Freeway Traffic	70	http://www.quietsolution.com
Normal Automobile	70	http://dbw.da.gov
Car Engine	70	http://fpl.com

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-_____

ATTACHMENT 2

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 7.40.170.A TO ALLOW THE USE OF MUFFLED EXHAUST BRAKES ON FIRE FIGHTING APPARATUS

WHEREAS, Tualatin Valley Fire and Rescue (TVF&R) has completed a District-wide review of compression braking, also known as exhaust braking or "jake brakes"; and

WHEREAS, TVF&R apparatus using muffled compression brakes meet noise emission standards from the Environmental Protection Agency (EPA); and

WHEREAS, the Municipal Code exempts sounds caused by emergency work and emergency vehicles from noises standards in Section 7.40.180.B, but specifically prohibits the use of exhaust braking except in an emergency, in Section 7.40.170.A;

WHEREAS, TVF & R has requested clarification of the code to allow TVF&R emergency vehicles to continue to use muffled compression brakes in the City; and

WHEREAS, the Council concludes that the noise from properly muffled compression brakes on emergency vehicles will be at acceptable noise levels,

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code Section 7.40.170.A is amended to read as follows
(**bold underlined** is new language):

A. The use of exhaust brakes (jake brakes), except in an emergency **and except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system**, is prohibited at all times within the City, regardless of noise level.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2006.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2006.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date

© 0055 U

PROCLAMATION

Arbor Day
April 13, 2006

WHEREAS, in 1872, Arbor Day, a special day set aside for the planting of trees, was first celebrated in Nebraska; and

WHEREAS, Tigard's urban forest of public and private parks and greenways is part of a larger ecology that spans from mountains to ocean and is integral to our region's water quality; and

WHEREAS, our urban forest includes a diversity of trees that grace our city streets, parks and greenways, provide habitat for wildlife, soften hardscapes, clean the air, protect water resources, and ensure that everyone can experience natural beauty where we live, work and recreate; and

WHEREAS, the City of Tigard recognizes that our urban forest is a necessity and is an integral part of the city's infrastructure and ecosystems; and

WHEREAS, we are committed to provide resources to maintain and enhance the urban forest; and

WHEREAS, people of all ages and backgrounds, including citizens, civic organizations, businesses and city agencies, have formed partnerships to participate actively in the stewardship and caretaking of Tigard's urban forest; and

NOW, THEREFORE BE IT RESOLVED THAT I, CRAIG DIRKSEN, Mayor of the City of Tigard, Oregon, do hereby proclaim April 13, 2006 to be:

ARBOR DAY

in Tigard and encourage people throughout the entire city to become more involved with the planting and stewardship of the urban forest throughout the year of 2006.

Dated this _____ day of _____ 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig E. Dirksen, Mayor
City of Tigard

Attest:

City Recorder



PROCLAMATION

National Community Development Week April 17 – April 23, 2006

WHEREAS, the Community Development Block Grant (CDBG) Program has operated since 1974 to provide local governments with the resources required to meet the needs of persons of low and moderate income; and

WHEREAS, Community Development Block Grant funds are used by a vast number of cities, counties and neighborhood-based nonprofit organizations throughout the Nation to address pressing neighborhood and human service needs; and

WHEREAS, the City of Tigard, Oregon and other local governments have clearly demonstrated the capacity to administer and customize the CDBG program to identify and resolve pressing local problems, such as affordable housing, neighborhood and human service needs, flood relief, job creation and retention, and physical redevelopment; and

WHEREAS, the week of April 17 – April 23, 2006 has been reserved for recognition and appreciation of the Community Development Block Grant Program.

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of the City of Tigard, Oregon, do hereby proclaim the week of April 17 – April 23, 2006 as

COMMUNITY DEVELOPMENT WEEK

in Tigard, Oregon and urge all citizens of our city to join in recognizing the Community Development Block Grant Program and the importance it serves to our community.

Dated this _____ day of _____, 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Craig Dirksen, Mayor
City of Tigard

Attest:

City Recorder



PROCLAMATION

Days of Remembrance “From Liberation to the Pursuit of Justice”

WHEREAS, the Holocaust was the state-sponsored, systematic persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945. Jews were the primary victims – six million were murdered; Gypsies, the handicapped, and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons. Millions more, including homosexuals, Jehovah’s Witnesses, Soviet prisoners of war and political dissidents, also suffered grievous oppression and death under Nazi tyranny;

WHEREAS, the history of Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS, we the people of the City of Tigard should always remember the terrible events of the Holocaust and remain vigilant against hatred, persecution, and tyranny; and

WHEREAS, we the people of the City of Tigard should actively rededicate ourselves to the principles of individual freedom in a just society; and

WHEREAS, the Days of Remembrance have been set aside for the people of the City of Tigard to remember the victims of the Holocaust as well as to reflect on the need for respect of all people; and

WHEREAS, pursuant to an Act of Congress (Public Law 96-388, October 7, 1980) the United States Holocaust Memorial Council designates the Days of Remembrance of the Victims of the Holocaust to be Sunday, April 23 through Sunday, April 30, 2006, including the international Day of Remembrance known as Yom Hashoah, April 25;

NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of the City of Tigard, on behalf of the entire City Council, do hereby proclaim:

Sunday, April 23 through Sunday, April 30, 2006, as

Days of Remembrance “From Liberation to the Pursuit of Justice”

in memory of the victims of the Holocaust, and in honor of the survivors, as well as the rescuers and liberators, and further proclaim that we, as citizens of the City of Tigard, should strive to overcome intolerance and indifference through learning and remembrance.

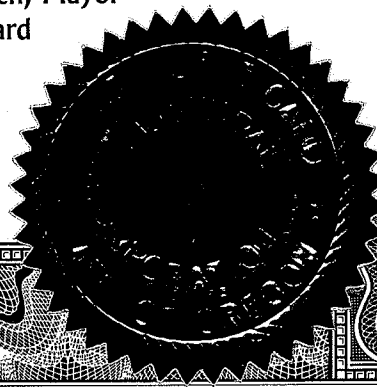
Dated this _____ day of _____ 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Attest:

Craig Dirksen, Mayor
City of Tigard

City Recorder



PROCLAMATION

Days of Remembrance “From Liberation to the Pursuit of Justice”

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NOW THEREFORE BE IT RESOLVED THAT I, Craig Dirksen, Mayor of the City of Tigard, on behalf of the entire City Council, do hereby proclaim:

Sunday, April 23 through Sunday, April 30, 2006, as

Days of Remembrance “From Liberation to the Pursuit of Justice”

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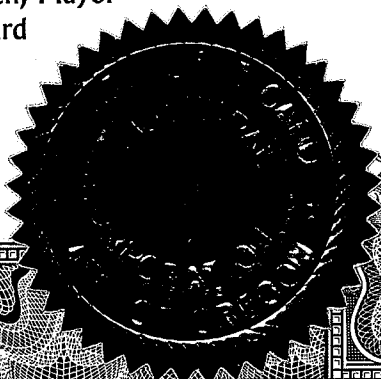
Dated this _____ day of _____ 2006.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tigard to be affixed.

Attest:

Craig Dirksen, Mayor
City of Tigard

City Recorder



Agenda Item No. _____
For Agenda of _____



Tigard City Council Meeting Minutes

Date: February 28, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Sydney Sherwood
Councilor Nick Wilson
Councilor Tom Woodruff

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session Intergovernmental Agreement (IGA) - Goal 5 Fish & Wildlife Habitat – Tualatin Basin Partners	<p>Staff Presenter: Associate Planner Igarta</p> <p>City Council will be asked to approve an IGA on the Consent Agenda relating to the organization and function of the Tualatin Basin Natural Resources Coordinating Committee (TBNRCC)</p> <p>Associate Planner Igarta reviewed the background leading up to the IGA as proposed. Approval of the IGA will extend the partnership with Tualatin Basin Partners for Natural Spaces to implement the fish and wildlife habitat protection program. Councilor Harding is the elected official liaison to the TBNRCC.</p> <p>Metro Council formally approved the Basin Program complying with Title 13 of the Regional Growth Management Functional Plan. Partners are now preparing to implement program elements to reach their goal of improving the Basin's environmental health and to comply with state and regional Goal 5 planning requirements.</p>	<p>See Consent Agenda No. 3.3, which was adopted by the City Council.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
Hall Boulevard Jurisdictional Transfer Discussion	<p>Staff Presenter: City Engineer Duenas</p> <p>Information on this item is outlined in a February 22, 2006 memorandum from City Engineer Duenas, which is on file in the City Recorder's office.</p> <p>The Oregon Department of Transportation has asked local jurisdictions to consider the conditions under which they would accept responsibility for the street. City Engineer Duenas noted Hall Boulevard is designated as a "road of interest" to the County. Local jurisdictions will be meeting with the Oregon Department of Transportation again in March.</p> <p>Council members discussed the potential transfer and suggested ideas for improvements before accepting jurisdiction:</p> <ul style="list-style-type: none"> ♦ address bridge issues over Fanno Creek (near City Hall and also at Oak Street) ♦ clarify responsibility for the street between the City and the County ♦ request full three-lane improvements to preserve an opportunity to for funding 	<p>Consensus of City Council was that staff should continue discussions with ODOT about transferring a portion of Hall Boulevard to the City of Tigard.</p>
Hall Blvd./99W Design Modifications	<p>Staff Presenter: Senior Planner Nachbar</p> <p>Staff recommended that the Hall/99W intersection be considered as part of the contract work to be performed by OTAK for streetscape design work. The goal would be to make this intersection more pedestrian friendly and to establish the area as a gateway to the downtown (green theme). The City Center Advisory Commission endorsed staff's recommendation at its February 23, 2006, meeting.</p>	<p>Consensus of City Council was to support the proposed amendment to the agreement with OTAK to add Hall Blvd./ 99W to the list of projects in the streetscape design work.</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
Urban Services Intergovernmental Agreement (IGA) with cities of Tigard, Tualatin, Beaverton, and Wilsonville, and Washington County (Washington County – Wilsonville to Beaverton Commuter Rail Project)	<p>Staff Presenter: Senior Planner Nachbar</p> <p>This revision to the IGA is also on the Consent Agenda (Item No. 3.2). The revised IGA extends the term of the agreement from December 24, 2002 to December 31, 2008 and adds a section regarding the relocation of utilities. TriMet, while not signing the IGA, is referred to as project manager. Senior Planner Nachbar reported that Attorney Firestone reviewed the IGA and found it acceptable.</p>	
Executive Session	<p>The Tigard City Council went into Executive Session at 6:51 p.m. to discuss pending litigation under ORS 192.660(2)(h).</p> <p>Executive Session concluded at 7:08 p.m.</p>	
Study Session continued – Administrative Items	<ul style="list-style-type: none"> ▪ No Chamber of Commerce Representative will attend tonight's meeting; Executive Director Monlux asked to be scheduled for an April City Council agenda. ▪ Letter from Mr. Bob Storer was distributed (Agenda Item No. 6 – Ash Creek Estates Public Hearing) ▪ Distributed to the City Council samples of new forms: <ul style="list-style-type: none"> ♦ Redesign of Testimony Sign in Sheets for Citizen Communication and Public Hearing Testimony ♦ New form: "Are you interested in serving on a City of Tigard Board, Committee or Commission?" <p>The forms were prepared as a result of the City Council's February 21, 2006, discussion on improved communications.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<ul style="list-style-type: none"> ▪ The March 14, 2006, City Council meeting is cancelled. <p>Study Session concluded at 7:10 p.m.</p>	
Business Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:31 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Sherwood, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports</p> <ul style="list-style-type: none"> • Councilor Harding announced a tree-planting event on March 4, Englewood Park, 9 a.m. • Councilor Harding announced Tigard-area CPO's are sponsoring a forum regarding 99W on Saturday, March 4, 9 a.m.- noon, Deb Fennell Auditorium • Mayor Dirksen announced there would be no City Council meeting on March 14, 2006. <p>1.5 Call to Council and Staff for Non-Agenda Items: None</p>	
2. Citizen Communications	<ul style="list-style-type: none"> ▪ John Frewing, 7110 SW Lola Lane, Tigard, OR 97223 referred to a City Council discussion last week about a performance audit of the Police Department. He suggested the City Council consider revisiting the idea of consolidating the Tigard Police Department with Washington County law enforcement. Mr. Frewing said there was potential for significant cost savings. <p>Mayor Dirksen noted the City Council discussion last week was with the Financial Strategy Task Force. The Task Force reported that, after review, the City was providing the</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
<p>Follow-Up – 5th Tuesday Meeting of January 31, 2006</p>	<p>services that it should be. The Task Force recommended performance audits of targeted programs in the General Fund to determine if services are being provided efficiently.</p> <ul style="list-style-type: none"> ▪ Linda Moholt, 19181 SW 55th Court, Tualatin, OR 97062, distributed information from the Tualatin Schoolhouse Pantry. She said the root cause of hunger stems from the need for affordable medical care as people must choose between paying for food or healthcare. She announced that in fall 2006, a free medical clinic will be available in the Washington County King City facility. The facility will be open one night a week staffed by volunteer doctors and nurses. Legacy and Providence are partners. A forum will be held April 25, 7 p.m. at Meridian Park Hospital. Essential Health Clinic information was also distributed. ▪ Pat Whiting, 8122 SW Spruce Street, Tigard, OR 97223, announced a forum will be held on March 4, 9 a.m. – 12 p.m. at the Deb Fennell Auditorium. She noted state, county, and local officials would be present to discuss issues regarding 99W. Questions from the public, written on cards, will be submitted to the panel of speakers for response. If people are not able to attend, Councilor Harding suggested they write to the Oregon Department of Transportation with their concerns. <p>City Manager Prosser reviewed issues that were discussed at the last City Council Fifth Tuesday Meeting:</p> <ul style="list-style-type: none"> ♦ Height restrictions issues – radio tower. This was addressed in a February 23, 2006, memorandum from the City Attorney. The neighbors are considering addressing their issue through their development's code, covenants, and restrictions (CC&R's). ♦ Investigate possibilities of a signal at Tigard and Main Street. This will be affected by the commuter rail crossing; it will be considered. 	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<ul style="list-style-type: none"> ◆ Park and Recreation Board meeting agendas and minutes have been posted on the City's web page. Staff will mail this information to anyone who requests it. ◆ Council could consider adding sidewalks to its next review of the street maintenance fee. The review is scheduled to take place in June 2007. ◆ Committee for Citizen Involvement will have recommendations regarding meetings held in neighborhoods to inform residents about new developments. Issues noted included that it seems as if there is a disconnect between the neighborhood meeting and what actually gets developed. ◆ The property owner responsible for clearing trees at Beef Bend/147th-150th (approximately) complied with Code provisions. ◆ Burnham Street design is to be done in May and construction completed in fall 2008. ◆ Use of franchise fees where collected is a City Council policy issue. ◆ Creating a task force to improve Durham Road right of way would be a Council decision. ◆ Notification to neighbors if there are substantial changes to a development should be incorporated in the Committee for Citizen Involvement recommendations. 	
3. Consent Agenda	<p>3.1 Approve Council Minutes for January 17 and 24, 2006</p> <p>3.2 Approve First Amendment to Urban Services Intergovernmental Agreement with Cities of Tigard, Tualatin, Beaverton, and Wilsonville, and Washington County (Washington County – Wilsonville to Beaverton Commuter Rail Project)</p> <p>3.3 Approve Intergovernmental Agreement (IGA) –</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Woodruff, to approve the Consent Agenda.</p> <p>The motion was approved by a</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Organization and Function of the Tualatin Basin Natural Resource Coordinating Committee</p>	<p>unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>
<p>4. Public Hearing (Quasi-Judicial): Vacation of An Un-Named Public Right-of-Way East of SW 74th Avenue and East of the S P & S Railroad Right-of-Way, North of Durham Road (VAC2005-00003)</p>	<p>The purpose of the public hearing is to consider a request by Larusso Concrete Company, Inc. and Richard Akerman & James Wathey concerning the proposed vacation involving an approximately 7,845 square foot portion of an un-named public right-of-way.</p> <p>The petition was filed with the City on November 15, 2005 and initiated by the City Council at the request of the applicant on December 20, 2005. Any interested person may appear and be heard for or against the proposed vacation of said Un-Named Portion of Public Right-of-way East of SW 74th Avenue Vacation. Any written objections or remonstrances were to have been filed with the City Recorder by 7:30 p.m. on February 28, 2006.</p> <p>Mayor Dirksen opened the public hearing.</p> <p>City Attorney Ramis reviewed the rules of procedure for this quasi-judicial hearing.</p> <p>Planning Manager Bewersdorff presented the staff report and noted the scope of the vacation request.</p> <p>The City did not pay for the right of way; the property was dedicated to the City when the property was platted. At that time, the subject property was considered to be needed for access; however, access is from SW 72nd Avenue.</p> <p>City Attorney Ramis noted the question before the City Council is whether it is in the public's interest to vacate the property.</p>	<p>Motion by Councilor Harding, seconded by Councilor Woodruff, to adopt Ordinance No. 06-01 with the amendment noted by staff in Section 2.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes</p>

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>There were no declarations or challenges regarding ex parte contact, the Council's jurisdiction to hear this matter, or participation of any Council member.</p> <p>Public testimony:</p> <ul style="list-style-type: none"> ◆ Ed Murphy, 9875 SW Murdock Street, Tigard, OR 97224, advised he represented the applicants for this vacation. The applicants have applied for a zone change. Mr. Murphy described the development plans. ◆ Rich Ackerman and Jim Lang signed on the testimony sheets; however, they declined to testify. <p>Mayor Dirksen closed the public hearing.</p> <p>Planning Manager Bewersdorff advised staff recommended that the City Council approve the proposed ordinance with a change to Section 2 to add that the City Recorder would record a certified copy of the ordinance and using the usual effective date language for ordinances.</p> <p>City Council considered Ordinance No. 06-01.</p> <p>ORDINANCE NO. 06-01 – AN ORDINANCE VACATING AN APPROXIMATELY 7,845 SQUARE FOOT PORTION OF AN UN-NAMED PUBLIC RIGHT-OF-WAY WHICH LIES TO THE EAST OF SW 74TH AVENUE AND EAST OF THE S P & S RAILROAD RIGHT OF WAY, NORTH OF SW DURHAM ROAD, IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2005-00003)</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)										
5. Public Hearing (Quasi-Judicial): Vacation of Five Small Portions of Public Right-of-Way Totaling 3,392 Square Feet Along SW 68 th Parkway and 69 th Avenue (VAC2005-00004 & VAC2005-00005)	<p>The purpose of the public hearing is to consider a request by Specht Development, Inc. concerning the proposed vacation involving five (5) small portions of public right-of-way totaling 3,392 square feet.</p> <p>The petition was filed with the City on September 9, 2005 and initiated by the City Council at the request of the applicant on January 10, 2006. Any interested person may appear and be heard for or against the proposed vacation of said 68th Parkway Public Right-of-Way Vacation and 69th Avenue Public Right-of-Way Vacation. Any written objections or remonstrances were to have been filed with the City Recorder by 7:30 p.m., February 28, 2006.</p> <p>Mayor Dirksen opened the public hearing.</p> <p>City Attorney Ramis noted the rules of procedure for this quasi-judicial hearing were the same as the rules for Agenda Item No. 4.</p> <p>Planning Manager Bewersdorff presented the staff report and noted the scope of the vacation request. Section 2 should be amended to reflect that the ordinance would take effect once the conditions are met and 30 days after its passage by the Council, using the usual effective date language for ordinances.</p> <p>There were no declarations or challenges regarding ex parte contact, the Council's jurisdiction to hear this matter, or participation of any Council member.</p> <p>There was no public testimony.</p> <p>Mayor Dirksen closed the public hearing.</p> <p>City Council considered Ordinance No. 06-02:</p> <p>ORDINANCE NO. 06-02 - AN ORDINANCE VACATING FIVE SMALL PORTIONS OF PUBLIC RIGHT OF WAY, TOTALING 3.392 SQUARE FEET ALONG 68TH PARKWAY AND 69TH AVENUE IN THE CITY OF TIGARD, WASHINGTON COUNTY, OREGON (VAC2005-00004 & VAC2005-00005).</p>	<p>Motion by Councilor Wilson, seconded by Councilor Sherwood, to adopt Ordinance No. 06-02 with amendment to Section 2 as noted by the staff.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes											
Councilor Harding	Yes											
Councilor Sherwood	Yes											
Councilor Wilson	Yes											
Councilor Woodruff	Yes											

Agenda Item	Discussion & Comments	Action Items (follow up)										
6. Public Hearing (Quasi-Judicial) Land Use Board of Appeals (LUBA) Remand of Ash Creek Estates Subdivision (Sub) 2003-00010/Planned Development Review (PDR) 2003-00004/Zone Change (ZON) 2003-0003/Sensitive Lands Review (SLR) 2003-00005/Adjustment (VAR) 2003-00036/Adjustment (VAR) 2003-00037	<p>The State Land Use Board of Appeals (LUBA) has remanded for a second time the City Council's approval of a 29-lot Planned Development Subdivision on 9.3 acres and associated Zone Change, Sensitive Lands, and Adjustment reviews to address a single issue relating to tree preservation. As limited by LUBA, the issue remanded is whether the tree plan preserves trees to the greatest extent possible, given that the second tree plan does not protect 23 trees designated for protection in the original tree plan, but not designated for protection in the revised tree plan previously approved. On this second remand, the applicant has submitted a second revised tree plan that amends the first revised tree plan by designating for protection the 23 trees specifically mentioned by LUBA. A full copy of LUBA's Final Opinion and Order can be obtained from City Hall at cost, or is also available online at http://luba.state.or.us/pdf/2005/sept05/05042.htm. LOCATION: 9750 SW 74th Avenue; WCTM 1S125DC, Tax Lots 300 and 400. ZONE: R-4.5: Low-Density Residential District. The R-4.5 zoning district is designed to accommodate detached single-family homes with or without accessory residential units at a minimum lot size of 7,500 square feet. Duplexes and attached single-family units are permitted conditionally. Some civic and institutional uses are also permitted conditionally. APPLICABLE REVIEW CRITERIA: The only applicable criterion on the issue on which LUBA remanded is CDC 18.350.100.B.3.a.1, which requires that planned developments protect existing trees to the greatest degree possible.</p> <p>City Attorney Ramis reviewed a statement of the quasi-judicial land use hearing procedures. A copy of the text of the procedures is on file in the City Recorder's office. His remarks included the following:</p> <p>“Any person may offer testimony. This matter is on remand from the Land Use Board of Appeals on a single narrow issue and testimony will be limited to that issue. LUBA limited the scope of this hearing to the question of whether CDC 18.350.100B.3.a.1 relating to tree protection is met with respect to 23 trees specified in the LUBA decision.”</p> <p>Mayor Dirksen opened the public hearing.</p> <p>Planning Manager Bowersdorff reviewed the history of this matter as outlined in the Agenda</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Wilson, to approve Resolution No. 06-09, which is a tentative decision until staff returns to City Council with additional findings.</p> <p>The motion was approved by a majority vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>No</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table> <p>This matter will be before the Council again on March 28, 2006, for final action.</p>	Mayor Dirksen	Yes	Councilor Harding	No	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes											
Councilor Harding	No											
Councilor Sherwood	Yes											
Councilor Wilson	Yes											
Councilor Woodruff	Yes											

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Item Summary. He noted the proposed resolution contains an additional finding and an additional condition, No. 59. Planning Manager Bewersdorff referred to the memorandum before the City Council from the City Attorney's office that also outlines the case before the City Council.</p> <p>City Attorney Ramis clarified that this case has been to LUBA more than once. Current status is that the City's decision had been upheld in all respects except for one point for further explanation and treatment by the Council. LUBA identified in Footnote 16 of this case 23 trees and asked that the Council consider how those trees are being treated in the protection plan. LUBA said that the treatment of these trees needed to be explained under the City standard, which says, "Preserve to the greatest extent possible the trees on the site." Before the City Council is a letter from the applicant noting that each of the 23 trees identified by LUBA can and will be preserved in the final development plan.</p> <p>City Attorney Ramis advised that a letter had been submitted to the City Council from Bob Storer. This letter will be included in the Record; however, City Attorney Ramis advised the City Council should consider the testimony carefully and not go beyond the scope of the LUBA remand. He advised that he did not believe any of the points stated in Mr. Storer's letter address the issue that LUBA has remanded. The letter asks the City Council to broaden the scope of the hearing beyond LUBA's specified scope, but this would violate LUBA's decision. City Attorney Ramis said his advice would be to not broaden the scope of the hearing. Mr. Storer's letter also argues about preserving trees, other than the 23 trees that are at issue and, again, this would be beyond the scope of the hearing. Mr. Storer's letter urges the City Council to deny the application even if the application meets the Code criteria; however, the City Council would not have such authority to do so in this proceeding. If the City Council wants to change the rules, it must be done within a process other than a quasi-judicial hearing. Mr. Storer's letter argues for the use of conservation easements, which are not at issue. The letter argues for compliance with laws of other jurisdictions which, again, is not before the City Council. Mr. Storer argues for the City to purchase the property and that issue is also not before the City Council.</p> <p>Declarations and Challenges: Councilor Harding advised she attempted to visit the site; however, the property is posted as "private property." Mayor</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Dirksen advised that he was well aware of the location of this site.</p> <p>John Frewing, 7110 SW Lola Lane, Tigard, OR 97223, challenged and requested clarification with regard to the adequacy of disclosure of ex parte contact between the decision makers and the applicant. A description of Mr. Frewing's objections is in writing and on file in the City Recorder's office. As outlined by Mr. Frewing, the alleged ex parte contact was evidenced in a newspaper column written by Rick Bella in the February 16, 2006, <i>The Oregonian</i>. This article quoted Mayor Dirksen commenting on donation of property to the City by the developers for Ash Creek Estates Subdivision.</p> <p>City Attorney Ramis advised that, under the proceedings used by the City of Tigard, now is the time to conduct the proceeding to determine whether there is bias or ex parte communications. City Attorney Ramis recommended against the continuance requested by Mr. Frewing unless it turns out during the process of examining that question, there is a need to do that. Before proceeding with City Council comments, City Attorney Ramis recommended the other parties to the case have an opportunity to comment on this request.</p> <p>Chris Koback, representing the applicant, and Dale Richards of Winwood Construction advised that they had no communications with the Tigard City Council members outside the hearing process.</p> <p>City Attorney Ramis asked the City Council members if there had been any discussion with the applicant or with the applicant's representative about the subjects Mr. Frewing has raised and also whether there might be some open space, as part of this application, which would bias City Council and prevent them from making a fair decision based upon the criteria and facts presented.</p> <p>Councilor Wilson advised that he has not talked to the owner or the developer other than within the public meetings. In addition, he noted that acquisition of the property by the City would not bias his decision. He might, since the accusation has been raised, want to decline to accept donated property to make sure there is no hint of impropriety or quid pro quo.</p> <p>Councilor Sherwood advised she has not spoken to the applicant or applicant representatives other than in the meetings; nor has she spoken to the</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>press. She agreed with Councilor Wilson's statement if it was thought she would be biased if the property was accepted, then she would support turning it down.</p> <p>Council Woodruff said this process began before his term on City Council started. He said he has had no contact with any of the people involved. He advised he had no conflict.</p> <p>Councilor Harding advised that the process began before her term on Council began. She has had no contact with the developer, the attorney, or Mr. Frewing.</p> <p>City Attorney Ramis asked to clarify – Councilor Woodruff had indicated he had had no ex parte communications and asked if there was anything about the case that would bias him in one way or another. Councilor Woodruff said, "No."</p> <p>Mayor Dirksen noted that he was interviewed by <i>Oregonian</i> Columnist Bella and he did make a statement with regard to potential for a portion of this parcel, which he understood the acreage that might be donated to the City was not developable. The Mayor's comment in Mr. Bella's article was based on a discussion with Interim Community Development Director Coffee. In addition, he noted that the article might be incorrect insofar as he is not certain that a donation has taken place. Mayor Dirksen advised that the only discussion he has had regarding this matter has been with City of Tigard staff. He has not met or talked with anyone outside of the public hearing. He noted that he had, in fact, on previous occasions approved this Planned Development before there was any thought that land might be donated.</p> <p>City Attorney Ramis advised he had not heard anything that would indicate either there has been ex parte communication or that any Council member has found a reason that they could not, because of bias, hear the case. He recommended the City Council proceed with the hearing; any decision reached tonight be a tentative decision so that the City Attorney can come back with findings for the City Council to consider that would address the ex parte communication and bias issues as well as the substantive decision that the City Council renders.</p> <p>City Manager Prosser noted the City has not taken title to any land. He noted the possible land donation would be something to explore; this matter has been referred to the Parks and</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Recreation Advisory Board, which has been working on criteria for when and how the City might accept donated land. No action has been taken on this piece of property in any way whatsoever.</p> <p>Mayor Dirksen also noted, with reference to the 23 trees under review at this hearing, he has no idea whether the trees are located in property that might be donated to the City; therefore, he did not see how this would have any impact on tonight's decision.</p> <p>City Attorney Ramis affirmed, upon a question from Councilor Woodruff, that the only issue before the City Council at this time is regarding the 23 trees per the LUBA remand; there is no choice before the City Council regarding whether or not the City should allow the project to move forward.</p> <p>Applicant's Statement:</p> <p>Chris Koback, representing the applicant, noted that subsequent to the LUBA remand the applicant was to either justify removing the 23 trees or show a plan saving the 23 trees. They chose to save the 23 trees.</p> <p>Councilor Wilson asked whether an arborist was involved in the decision whether the trees could be saved or not? Mr. Koback said there was an arborist that prepared the report. An arborist was not involved in the decision to save the trees. It was not a question of whether the trees were dead or diseased; these trees were under 12-inches in diameter and were going to be removed because, the Code as they interpreted, allowed them to remove trees less than 12 inches. LUBA directed them to look at this again, they did and the trees will be saved.</p> <p>Public Testimony:</p> <p>Mayor Dirksen called upon Mr. Frewing to speak as an opponent and reminded Mr. Frewing that the only issue before the City Council was with regard to the 23 trees.</p> <p>John Frewing, 7110 SW Lola Lane, Tigard, Oregon, commented that he believed the laws required him to register his objection on the adequacy of the ex parte disclosure. He said he does register an objection to keep his opportunity alive for an appeal.</p> <p>Mr. Frewing said his second objection was</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>regarding the scope of the hearing. He noted the City Attorney has advised the City Council cannot consider anything other than the 23 trees without violating the LUBA order. Mr. Frewing said his understanding was that the City Council could, of its own will, change the scope of the hearing.</p> <p>Mr. Frewing reviewed his testimony regarding the 23 trees. He also submitted a document for the record, which outlined his testimony. He referred to the revised tree preservation location drawing dated September 22, 2005, and said the application materials fall short of compliance to preserve the 23 trees.</p> <p>He referred to a drawing an how the trees were marked and then returned to his prepared comments whereby he outlined how the application materials fall short of compliance.</p> <p>After reviewing comments relating to the 23 trees, Mr. Frewing then referred to his written comments and outlined his issues with regard to the decision process. City Attorney Ramis requested that Mr. Frewing keep his testimony tied to the issue of the 23 trees. Mr. Frewing explained his comments were in two parts: 1) 23 trees and the 2) the hearing process and his rights within the hearing process. City Attorney Ramis said Mr. Frewing could continued but noted much of the testimony presented by Mr. Frewing appeared to be repetitive of issues already ruled upon by LUBA; therefore, these issues would not be before the City Council. Mr. Frewing said he did not think the issues had been addressed by LUBA.</p> <p>Mr. Frewing's written testimony was incorporated into the meeting record.</p> <p>Mr. Frewing requested that staff be asked to prepare findings to deny the application.</p> <p>In response to a question from Mayor Dirksen, Mr. Frewing advised he was in favor of the 23 trees being preserved but noted there were inconsistencies with the drawing regarding which trees are to be saved.</p> <p>Meeting recessed at 9:03 p.m. Meeting reconvened at 9:10 p.m.</p> <p>Rebuttal:</p> <p>Mr. Koback responded to Mr. Frewing's testimony and advised that the large tree plan was not revised. The applicant submitted a new drawing that they</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>thought was consistent with LUBA's dictate that showed that the 23 trees would be preserved. The Condition, as drafted by staff and agreed to by the applicant, specifically references that plan. Therefore, he does not think there is any confusion about how and what will happen. The applicant will guarantee the 23 trees will be preserved. The trees are not identified by species as noted by Mr. Frewing; this issue was raised at the Court of Appeals and the Court rejected the argument presented by Mr. Frewing on this issue.</p> <p>Mr. Koback said the argument referenced by Mr. Frewing dealing with tree protection; however, LUBA's dictate was very specific – it was on preserving trees to the extent possible. It did not talk about protection. Mr. Koback said evidence is in the record with regard to how the trees will be protected during construction. This was an issue that Mr. Frewing raised at LUBA and LUBA agreed with the applicant that what the applicant has submitted is adequate.</p> <p>Mr. Koback advised that new plans and standards raised by Mr. Frewing are not applicable as the applicant is entitled to comply with the laws in place at the time the application for this development was filed.</p> <p>Mr. Koback said the plan now before the City Council was not prepared by an arborist; "x's" were taken off the 23 trees to show that they would be protected from removal.</p> <p>The fencepost argument raised by Mr. Frewing relates to tree protection, which is a separate issue and is not part of the LUBA remand.</p> <p>There was discussion on the 23 trees and the requirements by LUBA; these trees are marked and are a net increase in the amount of trees that will be saved. There is no requirement for a formal tree plan. Mr. Koback said his client has clearly identified the trees to be saved. Mr. Richards said he personally marked the trees to be saved.</p> <p>There was discussion about the penalty that could be applied during the construction phase if a tree is not saved, including a \$500 fine plus the value of the tree and payment for mitigation requirements.</p> <p>Mr. Koback, in response to a question from Councilor Woodruff, said that nothing in the plan has been changed from the application. An arborist report was required; Terry Flanagan was the arborist.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>In response to a question by Mayor Dirksen, Planning Manager Bewersdorff advised that to his knowledge the application has not been changed from the original application other than to protect an additional 23 trees.</p> <p>City Attorney Ramis noted the March 14 City Council meeting has been cancelled. He asked the applicant if they had any objection to the final order being considered by the City Council at its March 28, 2006, meeting. The applicant did not object.</p> <p>In response to a question from Councilor Wilson and Councilor Harding regarding whether the staff was concerned about whether it was clear as to which 23 trees were to be saved, Planning Manager Bewersdorff advised the trees were marked on the plan and the trees were numbered; it was clear.</p> <p>Mr. Koback said that the previous report has not been changed. There is the new plan showing the 23 trees that are to be saved, but the large document originally submitted was not changed.</p> <p>Councilor Woodruff asked the City Attorney about the LUBA decision. City Attorney Ramis read the language from the LUBA decision:</p> <p style="padding-left: 40px;">“We also caution that our remand does not obligate the City to provide petitioner with another opportunity to identify additional trees that might be preserved. The City’s obligation on remand is limited to the trees identified in note 16 of this opinion.”</p> <p>Mayor Dirksen and Councilor Sherwood advised they had no desire to open the hearing to consider additional issues.</p> <p>Councilor Harding noted she would like to reopen for further review if there was any evidence that the K value had been increased (steepness of slope) and referred to the interpretation that can be made by the City Engineer. She said that she did not want to see the citizens and the City have to pay for repairs in the future due to things that may not hold over time. When she did the site visit she could not physically go on the property. She referred to the actual severity of the steepness of the slope.</p> <p>Mr. Frewing advised that new information was being discussed and he asked for an opportunity for rebuttal. City Attorney Ramis advised City</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Council to allow opportunity for additional comment and then allow the applicant to rebut.</p> <p>Mr. Frewing said that Mr. Richards advised the trees to be saved have been marked with numbers, but Mr. Frewing cannot go on the site. From what he has been able to observe, the tree markers and the tree numbering does not correspond to the drawing.</p> <p>There was no rebuttal.</p> <p>City Attorney Ramis noted the trees were identified in footnote 16 of the LUBA decision. The only comments germane to this hearing were that these trees are to be saved. Enforcement and saving of the trees comes later.</p> <p>Mayor Dirksen closed the public hearing.</p> <p>The City Attorney recommended that the City Council make a decision as framed by LUBA, which is to either explain why the trees can be removed or rule that the trees must be preserved. It seems to be that the applicant is proposing to preserve the trees.</p> <p>City Council considered and adopted Resolution No. 06-09, which will be a tentative decision until staff returns with findings for Council consideration.:</p> <p>RESOLUTION NO. 06-09 – A RESOLUTION AND FINAL ORDER APPROVING THE ASH CREEK ESTATES SUBDIVISION (SUBDIVISION (SUB) 2003-00010/PLANNED DEVELOPMENT REVIEW (PDR) 2003-00004/ZONE CHANGE (ZON) 2003-00003/ SENSITIVE LANDS REVIEW (SLR) 2003-00005/ ADJUSTMENT (VAR) 2003-00036/ ADJUSTMENT (VAR) 2003-00037/ - ON REMAND FROM LUBA; AND ADOPTING FINDINGS AND IMPOSING CONDITIONS.</p>	
	<p>(City Recorder's note: Agenda Items were considered out of the order listed on the Agenda. The next item heard was Agenda Item No. 10.)</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)										
10. Consider Establishing a Proposed Local Improvement District (LID) as a Project in the FY 2005-06 Capital Improvement Program (CIP), and Directing the Preparation of a Preliminary Engineer's Report for the Proposed LID in the Tigard Triangle and Authorizing the Establishment of a Funding Mechanism for the Preparation of the Report	<p>Staff Presenter: City Engineer Duenas</p> <p>The PowerPoint presentation overview is on file in the City Recorder's office.</p> <p>There was discussion on the process for this LID. Property owners within the area will be notified of this potential Local Improvement District. A favorable decision tonight to proceed will begin the study process. At a later meeting, the City Council will consider a recommendation whether to proceed or terminate the proceedings. There will be an opportunity for public comment on whether to form this LID. Specht Development is funding the cost for the study regarding formation of the LID. If the LID moves forward, then the study expenses will be included in the final costs for the LID.</p> <p>Greg Specht, President of Specht Development, identified the properties owned by Specht and reviewed the requirements associated with "floor area ratios" (FAR). He described the type of development Specht decided it would like to place on the property, which requires a larger parcel of property to meet Code requirements. In addition, Ed Murphy (also representing Specht Development) referred to the LID procedures and that the City's preference is that an LID is not a single-owner LID. Approximately 60 percent of the property is owned by Specht Development.</p> <p>Mr. Specht noted that about 21 percent of the properties are owner occupied; these owners would be the most impacted with the formation of the LID. He pointed out that this property is within the MUE (Mixed Used Employment) and planned for future employment opportunities and transportation connectivity.</p> <p>Council and staff discussed that this was a preliminary step; more evaluation would take place later, including input from other property owners.</p>	<p>Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 06-10.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes											
Councilor Harding	Yes											
Councilor Sherwood	Yes											
Councilor Wilson	Yes											
Councilor Woodruff	Yes											

Agenda Item	Discussion & Comments	Action Items (follow up)										
	<p>Councilor Wilson noted ex parte contact in that he did speak with Mr. Specht previously about the FAR requirements. He advised that they did not talk about the formation of an LID. Councilor Wilson advised this conversation would not influence his decision in this matter.</p> <p>City Council considered Resolution No. 06-10</p> <p>RESOLUTION NO. 06-10 – A RESOLUTION DIRECTING THE ENGINEERING STAFF TO ESTABLISH A PROPOSED LOCAL IMPROVEMENT DISTRICT (LID) AS A PROJECT IN THE FY 2006-06 CIP (CAPITAL IMPROVEMENT PROGRAM), DIRECTING THE PREPARATION OF A PRELIMINARY ENGINEER’S REPORT FOR THE PROPOSED LID IN THE TIGARD TRIANGLE AND AUTHORIZING THE ESTABLISHMENT OF A FUNDING MECHANISM FOR THE PREPARATION OF THE REPORT</p>											
11. Consider Budget Amendment #10 to the FY 2005-06 Budget to Increase Appropriations in the Gas Tax Fund for Funding of the Preliminary Engineer’s Report for the Proposed Local Improvement District (LID) for Infrastructure Improvements in the Tigard Triangle	<p>The proposed budget amendment is related to Agenda Item No. 10. Specht development is depositing \$125,000 to fund the Preliminary Engineer’s Report. While the total Preliminary Engineer’s Report cost is \$125,000, it is anticipated that only \$70,000 of this total cost will be incurred in FY 2005-06.</p> <p>City Manager Prosser noted that Specht Development’s deposit will be placed in the Gas Tax fund and will actually fund the cost of the report. For budgetary purposes, it is necessary to do a contingency transfer of \$70,000 from the Gas Tax Fund to the Gas Tax Capital Improvement Project budget to appropriate the necessary funds. The City will include the cost of preparing the report in the total cost of the LID if the City establishes the district. If the LID is not formed, Specht Development’s deposit will be used to fund the report’s cost.</p> <p>City Council considered Resolution No. 06-11.</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Wilson, to adopt Resolution No. 06-11.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Sherwood</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes											
Councilor Harding	Yes											
Councilor Sherwood	Yes											
Councilor Wilson	Yes											
Councilor Woodruff	Yes											

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>RESOLUTION NO. 06-11 – A RESOLUTION APPROVING BUDGET AMENDMENT #10 TO THE FY 2005-06 ADOPTED BUDGET TO INCREASE APPROPRIATIONS IN THE GAS TAX FUND FOR FUNDING OF THE PRELIMINARY ENGINEER'S REPORT FOR THE PROPOSED LOCAL IMPROVEMENT DISTRICT (LID) FOR INFRASTRUCTURE IMPROVEMENTS IN THE TIGARD TRIANGLE</p>	
<p>7. Local Contract Review Board – Post-Project Evaluation Report of the CM/GC (Construction Manager/General Contractor) Contract for the Tigard New Library Project</p>	<p>Staff Presenter: City Engineer Duenas</p> <p>The PowerPoint presentation overview is on file in the City Recorder's office.</p> <p>The post-project evaluation report should have been submitted to the Local Contract Review Board within 30 days of acceptance and final payment of the project and that it be made available to the public. The evaluation is intended to comply with the above requirement although the required submittal period has expired.</p> <p>The use of the CM/GC method ensured control of costs through the design and construction phases. Because of the collaborative nature of the process, the new library was constructed on time and within the budget set for the project.</p> <p>City Manager Prosser advised that this method of construction was used for the first time by the City of Tigard for the new library building. It would clearly be of benefit to use this process again. LCRB Chair Dirksen acknowledged the success of the project.</p>	
<p>8. Consider an Intergovernmental Agreement (IGA) for Joint Funding of a Water Supply System Plan with the City of Lake Oswego</p>	<p>Staff presenter: Public Works Director Koellermeier</p> <p>Approval of the IGA would fund a water supply system plan with the City of Lake Oswego. The City of Tigard has been a Lake Oswego water customer since the early 1960's. The IGA would set the groundwork for a future joint ownership of a water system with Lake Oswego. On February 8, the</p>	<p>Motion by Councilor Sherwood, seconded by Councilor Harding, to approve the Intergovernmental Agreement.</p> <p>The motion was</p>

Agenda Item	Discussion & Comments	Action Items (follow up)										
	<p>Intergovernmental Water Board recommended approval of the IGA.</p> <p>City Manager Prosser noted the City of Lake Oswego’s water source is the Clackamas River.</p> <p>Councilor Woodruff advised that the City is looking at a number of options for long-term water sources and he was very much in favor of moving ahead with the IGA.</p> <p>There was discussion on the cost for the work to be done as outlined in the IGA, with Councilor Harding expressing her hope that it could be less expensive. Public Works Director Koellermeier reviewed that the high cost was driven by the level of engineering detail required. Councilor Woodruff acknowledged the high expense noting that this is a long-term investment for multiple millions of dollars; the City is coming to the time where it will have to make long-term decisions.</p>	<p>approved by a unanimous vote of Council present.</p> <table> <tr> <td>Mayor Dirksen</td> <td>Yes</td> </tr> <tr> <td>Councilor Harding</td> <td>Yes</td> </tr> <tr> <td>Councilor Sherwood</td> <td>Yes</td> </tr> <tr> <td>Councilor Wilson</td> <td>Yes</td> </tr> <tr> <td>Councilor Woodruff</td> <td>Yes</td> </tr> </table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Sherwood	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
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Councilor Harding	Yes											
Councilor Sherwood	Yes											
Councilor Wilson	Yes											
Councilor Woodruff	Yes											
<p>9. Consider Pursuing Design Modification of the Intersection at Hall Boulevard and 99W to Include Pedestrian Improvements, Landscaping Enhancements and a Potential Gateway</p>	<p>Staff Presenter: Interim Community Development Director Coffee</p> <p>The design modification for this project would be to include pedestrian improvements, landscaping enhancements, and a potential gateway. The amendment to the streetscape contract with OTAK for \$7-10,000 would provide design and engineering services for intersection modifications. Washington County is presently managing the design of improvements to the intersection. There is an opportunity now as part of the design process for the City to potentially include these additional design modifications.</p>	<p>Council consensus was to direct staff to pursue the design modifications as outlined in the Agenda Item Summary.</p>										

Adjournment	Council meeting adjourned: 10:21 p.m.	<p>Motion by Councilor Harding, seconded by Councilor Woodruff, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p> Mayor Dirksen Yes Councilor Harding Yes Councilor Sherwood Yes Councilor Wilson Yes Councilor Woodruff Yes </p>
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Attest:

Catherine Wheatley, City Recorder

Mayor, City of Tigard

Date: _____

MEMORANDUM



TO: Honorable Mayor and City Council

FROM: Cathy Wheatley, City Recorder *Cathy*

DATE: April 3, 2006

SUBJECT: Three-Month Council Meeting Calendar

Agenda Item No. _____
For Agenda of April 11, 2006

Regularly scheduled Council meetings are marked with an asterisk (*).

April

11*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
18*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
19	Wednesday	Employee Recognition – 9 a.m. – Library Community Room
21	Friday	Tigard Chamber of Commerce – Shining Stars Banquet – 6-9 p.m. Crowne Plaza Hotel, 14711 Kruse Oaks Drive, Lake Oswego
24	Monday	Budget Committee Meeting – 6:30 pm, Tigard Water Auditorium
25*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall

May

1	Monday	Budget Committee Meeting -- 6:30 pm, Tigard Water Auditorium
8	Monday	Budget Committee Meeting -- 6:30 pm, Tigard Water Auditorium
9*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
15	Monday	Budget Committee Meeting -- 6:30 pm, Tigard Water Auditorium
16*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
22	Monday	Budget Committee Meeting (if needed) -- 6:30 pm, Tigard Water Auditorium
23*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
29	Monday	Memorial Day Holiday – City Offices Closed
30	Tuesday	Fifth Tuesday Council Meeting – 7-9 pm, Tigard Water Auditorium

June

13*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall
16-18	Fri-Sun	Tigard Festival of Balloons
20*	Tuesday	Council Workshop Meeting – 6:30 pm, Town Hall
27*	Tuesday	Council Business Meeting – 6:30 pm, Town Hall

Tigard City Council Tentative Agenda 2006

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	April 4, 2006 March 28, 2006	Meeting Date: Location: Greeter: Materials Due @ 5:	April 11, 2006 Business/6:30 p.m. City Hall March 28, 2006	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	April 18, 2006 Workshop/6:00 City Hall April 4, 2006
		Study Session - OVERSCHEDULED		Workshop Agenda	
Community Attitude Survey - Tom C.	Tualatin River Wildlife Refuge Opening Event Contribution - Duane R. - 20 min. Police Patch Design Consideration-Bill D.-10 min. City Mgr.Perf. Review & Process - Craig P. - 45 min. Amend TMC to allow muffled compression brakes - ORD Tom C. - 10 min.			Start at 6:00 p.m. Executive Session - Labor Negotiations - 15 min. 1. Joint Meeting with Library Board - Margaret - 30 min. SI 2. Balloon Festival Discussion - Dennis K. - 10 min. 3. Washington Square Discussion w/John Genovese of Macerich Corp - Tom C.- 30 min. 4. Greenburg Road Alternatives Analysis Report - PPT - Gus D. - 30 min. 5. Planned Development Code Revision - w/ PD Code Committee - Tom C. - 60 min. 6. Proposed Street-Cut Moratorium - Nancy W. 20 min. PPT 7. Tigard Municipal Code Revisions - Incorporate Privilege Tax - Gus/Nancy/Bob S. 20 min.	
	Consent Agenda				
	LCRB - Authorize approval of IGA with Clean Water Svcs. for Fanno & Hiteon Creek Restoration Projects - Dennis K. LCRB - Award Audit Svcs. Contract - Bob S. Approve IGA Amendment No. 1 with ODOT for Greenburg Road Project - Gus. D. Extend Budget Comm. Terms - RES -Bob. S.-10 min.				
	Business Meeting				
	Proclamation - Arbor Day - Dennis - 5 min. Proclamation - Community Dev. Week - Tom C. - 5 min. Proclamation - Days of Remembrance - Joanne B. - 5 min. Property Tax Exemption for Three Non-Profit Low Income Properties - RES - Bob S. - 20 min.				
Time Avail: 135 min. - Time Scheduled: 35 min. Time Left: 100 min.			Time Avail: 200 min. - Time Scheduled: 215 min. Time Left: (-15 min.)		

THS Student Envoy - Citizen Comm.

Tigard City Council Tentative Agenda 2006

[illegible]

THS Student Krista to introduce next year's envoy

Tigard City Council Tentative Agenda 2006

Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	May 23, 2006 Business/6:30 p.m. City Hall May 9, 2006	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	May 30, 2006 5th Tues./7 PM Water Building Aud. May 16, 2006	Meeting Date: Meeting Type/Time: Location: Greeter: Materials Due @ 5:	June 13, 2006 Business/6:30 p.m. City Hall May 30, 2006
Study Session		Fifth Tuesday Meeting		Study Session	
Consent Agenda				Consent Agenda	
Business Meeting				Business Meeting	
Time Avail: 135 min. - Time Scheduled: min. Time Left: min.				Time Avail: 135 min. - Time Scheduled: min. Time Left: min.	

AGENDA ITEM # _____
FOR AGENDA OF April 11, 2006

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Extension Of Budget Committee Terms To Coincide With Annual Budget Process

PREPARED BY: Robert Sesnon DEPT HEAD OK RLS CITY MGR OK CR

ISSUE BEFORE THE COUNCIL

Should the City Council extend the current terms of the existing Budget Committee members for an additional six months beyond each one's expiration?

STAFF RECOMMENDATION

Extend the current terms of the Budget Committee members for an additional six months so that the terms expire on December 31 to coincide more closely with the annual budget process.

INFORMATION SUMMARY

As required by state law (ORS 294.336) the City Council is required to appoint members to the Budget Committee for three-year terms. By City of Tigard resolution, the members are limited to two consecutive terms, not withstanding prior appointment to an unexpired term.

Historically, these terms have ended on June 30, after the annual budget process is completed. New members are appointed and begin their terms on July 1 and then wait many months before having much involvement. By changing the terms to end in December this would align the terms with the annual budget process and allow new members time to get briefed and comfortable with their role before beginning the budget hearings.

OTHER ALTERNATIVES CONSIDERED

The Council may choose to take no action. In this case terms of Budget Committee members would continue to expire on June 30.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

This addresses the following City Council adopted goal for 2006:

Improve Communication and Relationship with Citizens

This also addresses the Tigard Beyond Tomorrow Vision Statement:

Community Character and Quality of Life goal for communication

ATTACHMENT LIST

None

FISCAL NOTES

There are no costs associated with this item.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 06-_____

A RESOLUTION EXTENDING THE TERMS FOR CURRENT MEMBERS OF THE BUDGET COMMITTEE

WHEREAS, ORS 294.336 requires that the City Council appoint citizens to a budget committee for three-year terms; and

WHEREAS, the terms have historically followed the City's fiscal year and begin on July 1 and expire on June 30; and

WHEREAS, new members of the Budget Committee begin their term immediately after the City's annual budget process is complete and therefore have little involvement until the next budget process begins in April the following year; and

WHEREAS, the terms of the current Budget Committee members should be extended six months to coincide more closely with the annual budget process.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The terms of each of the current members of the Tigard Budget Committee are to be extended for six months, as follows:

Committee <u>Member</u>	Current Term <u>Expiration</u>	New Term <u>Expiration</u>
Rick Parker	June 30, 2008	December 31, 2008
Mark Haldeman	June 30, 2007	December 31, 2007
Katie Schwab	June 30, 2007	December 31, 2007
Jason Snider	June 30, 2006	December 31, 2006
Sue Yesilada	June 30, 2006	December 31, 2006
Kevin Luby (alt.)	June 30, 2008	December 31, 2008

PASSED: This _____ day of _____ 2006.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard

AGENDA ITEM # _____
FOR AGENDA OF April 11, 2006

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Amendment No. 1 to the Greenburg Road Project Agreement with ODOT (Oregon Department of Transportation)

PREPARED BY: A.P. Duenas  DEPT HEAD OK  CITY MGR OK 

ISSUE BEFORE THE COUNCIL

Should Council approve Amendment No. 1 to the Greenburg Road Project Agreement with ODOT (Oregon Department of Transportation) delaying commitment of the federal funding received through the MTIP (Metropolitan Transportation Improvement Program) until an appropriate project can be identified for implementation?

STAFF RECOMMENDATION

Approve, by motion, Amendment No. 1 to the Greenburg Road Project Agreement with ODOT and authorize the Mayor and City Recorder to sign the documents.

INFORMATION SUMMARY

This amendment implements an earlier Council decision directing the redesign and reduction in cost of a proposed improvement project on Greenburg Road.

The original project agreement with ODOT was approved by Council at the October 29, 2002 meeting. That agreement obligated funding for preliminary engineering in the amount of \$270,000 and right-of-way acquisition in the amount of \$390,000. Since then, the City was granted an additional million dollars for construction. However, the estimated project cost doubled since the original estimate was prepared in 1999, rising from \$2.5 million to \$5.0 million. Part of the estimated cost increase was replacement of the culvert crossing Ash Creek with a new structure. The significant increase in materials and labor costs since then, coupled with more extensive environmental work envisioned around the creek crossing, accounted for the rest of the revised estimated cost.

Council decided that the project should not be constructed as proposed and approved a request to Metro and ODOT (Resolution No. 05-53) to hold the federal funding (\$1,660,000 total) in reserve until an appropriate project could be defined to fit the funding available. Metro and ODOT approved the request and ODOT prepared an amendment to the original project agreement. They both concluded that the simplest way to reserve the funding is to move the preliminary engineering and right-of-way amounts into a future implementation year, but retain the existing project until a new project can be identified. This amendment to the original agreement therefore does the following:

- Withdraws the funding committed for preliminary engineering and right-of-way acquisition.
- Delays the obligation of the entire grant until calendar year 2009 (the year the additional million dollars is expected to be obligated) to allow sufficient time for the City to identify an appropriate project.

Once the future project is selected, the funding can be directed to that project and the timing of obligation can be revised to allow for design, right-of-way acquisition and construction. Approval of the amendment is necessary to ensure that the entire funding is reserved until the City is ready to apply it to an appropriate project.

OTHER ALTERNATIVES CONSIDERED

N/A

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The Highway 99W Corridor Improvement and Management Plan would develop a list of projects to meet the Council Goal to "Improve 99W Corridor" and the Tigard Beyond Tomorrow goal of "Improve Traffic Flow."

The selected project, if drawn from the Highway 99W corridor project list, would enhance traffic flow on Highway 99W. A project at the Greenburg Road intersection with Tiedeman Avenue (and adjacent intersection of Tiedeman with North Dakota Street) would improve the traffic flow at that congested intersection.

ATTACHMENT LIST

1. Amendment No. 1 to the Greenburg Road Project Agreement with ODOT
2. Resolution No. 05-53 – A Resolution Authorizing MTIP Funding for the Greenburg Road Project to be Held in Reserve for a Future City Project

FISCAL NOTES

The federal funding available through the MTIP program is as follows:

Preliminary Engineering:	\$ 270,000
Right-of-Way:	\$ 390,000
Construction:	\$1,000,000
Total available for a future project:	\$1,660,000

The entire MTIP funding is delayed until calendar year 2009. The City will be working with Metro and ODOT to identify an appropriate project before the funding needs to be obligated for the project. The amendment pushes the expiration date of the funding to December 23, 2014.

AMENDMENT NO. 1
SURFACE TRANSPORTATION PROJECT – METRO ONLY
Washington Square Dr. – Tiedeman Ave. (Tigard)

The State of Oregon, acting by and through its Department of Transportation, hereinafter referred to as State; the City of Tigard, acting by and through its Elected Officials, hereinafter referred to as Agency; and Washington County, a political subdivision of the State of Oregon, acting by and through its Board of County Commissioners, hereinafter referred to as County, entered into Local Agency Agreement No. 19,146 on December 23, 2002. Said agreement covers the widening of Greenburg Road from Shady Lane to Tiedeman Avenue with bike lanes, sidewalks, and signal modifications, hereinafter referred to as "Project."

It has now been determined by State and Agency that the agreement referenced above, although remaining in full force and effect, shall be amended by this agreement to remove the fixed funding for PE and right-of-way, add funding and up-date standard language. Therefore the above mentioned agreement shall be amended as follows:

Page 1, Recitals, Paragraph 2, which reads:

"2. By the authority granted in ORS 190.110, 366.770 and 366.775, State may enter into cooperative agreements with the counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties."

Shall be deleted in its entirety and amended to read:

"2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties."

Insert new Paragraph 10 of Terms of Agreement, Page 3, to read as follows:

"3. The federal funding for this Project is contingent upon approval by the FHWA. Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense."

Page 1, Terms of Agreement, Paragraph 2, which reads:

"2. The Project shall be conducted as a part of the Federal-Aid Surface Transportation Program, Title 23, United States Code. The total Project cost is estimated at \$2,725,000. This agreement sets the terms and funding for the Preliminary Engineering (PE) and right-of-way acquisition phases of the Project only. The Metro Priorities 2000 STP funds for this Project shall be limited to \$270,000 and are for PE."

M C & A No. 19,146, Amendment No. 1
CITY OF TIGARD & WASHINGTON COUNTY

The Metro Priorities 2002 STP funds are limited to \$390,000 and are for **Right-of-Way**. The project will be financed with Surface Transportation Program funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs. The terms for subsequent phases of the Project shall be set by future agreement(s). The estimate for the total project cost is subject to change."

Shall be deleted in its entirety and amended to read:

"2. The Project shall be conducted as a part of the Federal-Aid Surface Transportation Program (STP), under Title 23, United States Code. The total Project cost is estimated at \$4,436,000, which is subject to change. The STP local funds for this Project shall be limited to \$1,660,000. The project will be financed with STP funds at the maximum allowable federal participating amount, with Agency providing the match and any non-participating costs, including all costs in excess of the available federal funds."

Page 2, TERMS OF AGREEMENT, Paragraph 3 which reads:

"3. The term of this agreement shall begin on the date all required signatures are obtained and shall terminate within six calendar years following that date."

Shall be deleted in its entirety and amended to read:

"3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or by December 23, 2014, whichever is sooner."

Page 2, TERMS OF AGREEMENT, Paragraph 4-d which reads:

"d. If State fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement."

Shall be deleted in its entirety and amended to read:

"d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement."

Page 2, Paragraph 5 of Terms of Agreement, which reads:

"5. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2."

Shall be deleted in its entirety and amended to read:

"5. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2."

Page 3, Paragraph 6 of Terms of Agreement which reads:

"6. Agency, as a recipient of grant funds, pursuant to this agreement with the State, shall assume sole liability for Agency's breach of the conditions of the grant, and shall, upon Agency's breach of grant conditions that requires the State to return funds to the Federal Highway Administration, the grantor, hold harmless and indemnify the State for an amount equal to the funds received under this agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this agreement."

Shall be deleted in its entirety and amended to read:

"6. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, including but not limited to Article XI, Section 10 of the Oregon Constitution, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this agreement."

M C & A No. 19,146, Amendment No. 1
CITY OF TIGARD & WASHINGTON COUNTY

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This Project is in the 2006-2009 Statewide Transportation Improvement Program that was approved by the Oregon Transportation commission on August 17, 2005. (Key No. 11436).

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations when the work is related to a project included in the Statewide Transportation Improvement Program or a line item in the biennial budget approved by the Commission.

On November 10, 2004, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, in which the Director delegates to the Deputy Director, Highways the authority to approve and sign agreements over \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program or in other system plans approved by the Oregon Transportation Commission or in a line item in the biennial budget approved by the Director.

M C & A No. 19,146, Amendment No. 1
CITY OF TIGARD & WASHINGTON COUNTY

APPROVAL RECOMMENDED

By _____
Region 1 Manager

Date _____

By _____
Tech Serv Mgr/Chief Engineer

Date _____

**APPROVED AS TO
LEGAL SUFFICIENCY**

By _____
Assistant Attorney General

Date _____

**APPROVED AS TO
LEGAL SUFFICIENCY**

By _____
City Attorney

Date _____

**APPROVED AS TO
LEGAL SUFFICIENCY**

By _____
County Attorney

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Deputy Director, Highways

Date _____

CITY OF TIGARD, by and through its
Elected Officials

By _____
Mayor

By _____
Recorder

Date _____

WASHINGTON COUNTY, by and
through its Elected Officials

By _____
Chair

Date _____

AGENCY Billing Address:
CITY OF TIGARD
13125 SW Hall Blvd.
Tigard, OR 97223

CITY OF TIGARD, OREGON

RESOLUTION NO. 05- 53

**A RESOLUTION AUTHORIZING MTIP FUNDING FOR THE GREENBURG ROAD PROJECT
TO BE HELD IN RESERVE FOR A FUTURE CITY PROJECT**

WHEREAS, the City has received federal funding for the Greenburg Road Improvement Project (Shady Lane to Tiedeman Avenue) from the Metro MTIP (Metropolitan Transportation Improvement Program) Priorities 2000, 2002, and 2007-09 solicitation processes; and

WHEREAS, the total MTIP funding approved is \$1,660,000; and

WHEREAS, the project originally estimated at \$2,500,000 in 1999 is now estimated at \$5,000,000; and

WHEREAS, the City's local match has increased from one-third of the total project cost to two-thirds of the current estimated cost; and

WHEREAS, Council has directed that the project be redefined or downsized to ensure that the federal funding contributes to a major share of the project cost; and

WHEREAS, Metro has agreed to consider placing the funds in a reserve account to be applied to a future high priority project in the vicinity of the Washington Square Regional Center, Highway 99W between the Tigard Town Center and the Regional Center, or the Tigard downtown area; and

WHEREAS, studies authorized in FY 2005-06 for the Highway 99W corridor and the Greenburg Road/Highway 99W intersection are expected to produce a list of high priority projects; and

WHEREAS, an appropriate project commensurate with the federal funding available can be selected from the high priority projects identified through these studies.

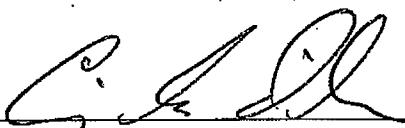
NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The placement of the MTIP funding for the Greenburg Road Improvement Project in a reserve account to be applied to a future high priority City project is hereby authorized.

SECTION 2: City staff is authorized to coordinate with Metro for the placement of these funds in a reserve account pending selection of a future project.

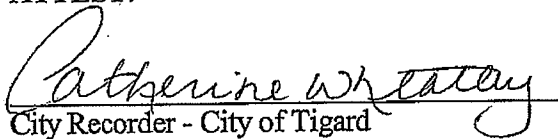
SECTION 3: This resolution is effective immediately upon passage.

PASSED: This 23rd day of August 2005.



Mayor - City of Tigard

ATTEST:



City Recorder - City of Tigard

I:\eng\resolutions\8-23-05 resolution authorizing milp funds for the greenburg road project to be held in reserve.doc

AGENDA ITEM # _____
FOR AGENDA OF April 11, 2006

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Authorize the Mayor to Approve the Intergovernmental Agreement (IGA) with Clean Water Services (CWS) for Fanno and Hiteon Creek Enhancement Projects

PREPARED BY: Dennis Koellermeier DEPT HEAD OK  CITY MGR OK 

ISSUE BEFORE THE COUNCIL

Consider the IGA.

STAFF RECOMMENDATION

Approve the IGA.

INFORMATION SUMMARY

This IGA is related to the Healthy Streams Plan. The Council heard a presentation describing the plan at their March 28, 2006, meeting. As discussed at that meeting, Tigard is focusing on implementing projects to improve problem culverts and outfalls and replant stream corridors.

This IGA, between the City and CWS, outlines work to cooperatively complete two stream enhancement projects located in close proximity to each other. Both enhancement projects implement goals defined in the Healthy Streams Plan. CWS and City utility crews will construct the projects located on Fanno and Hiteon Creek. This partnership will provide a cross-training opportunity where Tigard staff will learn about stream restoration techniques. The knowledge and skills gained by this experience will be applied to future City restoration projects.

This partnership benefits both parties by: (1) providing Tigard an opportunity to train staff and to construct Hiteon Creek using our own construction crews, and (2) by allowing CWS to complete an important restoration project on Fanno Creek that could not be completed under current City codes without City sponsorship.

OTHER ALTERNATIVES CONSIDERED

Not approve the IGA. This would result in a lost opportunity to train City staff in stream restoration techniques. Should the project proceed without benefit of the IGA, the City would need to hire an outside contractor to construct the project. This is likely to increase overall project costs. Not approving the IGA would also result in stopping the Fanno Creek restoration project, since no major land form alterations are allowed in the area, including restoration work, unless the project is sponsored by the City.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The Fanno and Hiteon Creek Enhancement Projects support a number of the City's Vision Task Force Goals by protecting the natural environment, protecting and restoring open space, and serving as an effective stormwater management tool.

The specific goals addressed include:

Urban and Public Services – Parks and Greenways Goal 2: “Open space and greenway areas shall be preserved and protected.”

Urban and Public Services - Water and Stormwater Goal 3: “Stormwater runoff is effectively managed.”

ATTACHMENT LIST

1. IGA for Fanno and Hiteon Creek Enhancement Projects

FISCAL NOTES

Tigard's share of the project, if constructed in-house, is expected to cost \$90,000. The proposed FY '06/'07 budget identifies \$90,000 for these projects, which would be financed with Water Quality/Quantity funds.

**INTERGOVERNMENTAL AGREEMENT
FANNO AND HITEON CREEK ENHANCEMENT PROJECTS**

**CLEAN WATER SERVICES AND
CITY OF TIGARD**

This agreement, dated _____, 2006, is between **CLEAN WATER SERVICES**, a county service district formed under ORS Chapter 451, hereinafter referred to as "Clean Water Services" and the **CITY OF TIGARD**, hereinafter referred to as "Tigard".

A. RECITALS

WHEREAS, ORS 190.003 - 190.110 encourages intergovernmental cooperation and authorizes local governments to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, Clean Water Services and Tigard collaborate on projects that enhance riparian and floodplain ecological functions and values, pretreat and manage storm water, and allow for sanitary sewer service, in an effort to improve water quality in the Tualatin Basin; and

WHEREAS, Clean Water Services and Tigard entered into an intergovernmental Agreement dated January 25, 2005 that articulates the procedures for working together on projects; and

WHEREAS, Clean Water Services and Tigard agree to work cooperatively on Fanno Creek at Englewood Park and Hiteon Creek stream enhancements,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

B. PROJECT DESCRIPTION

The project will enhance the ecological functions of Fanno and Hiteon Creeks and offer Clean Water Services and Tigard a unique hands-on partnership training opportunity by implementing the following projects beginning in June 2006 through March 2007:

Fanno Creek (Scholls Ferry Road to N. Dakota Rd)

1. Re-meander a straightened portion of the stream, backfill straightened areas, add large wood and gravels for habitat complexity, and remove obstructions to fish passage per approved plans.
2. Replant wetland and riparian areas with native vegetation per the Clean Water Service's standards for erosion control and revegetation.

Hiteon Creek (Confluence with Fanno Creek to Scholls Ferry Road)

1. Adjust or replace culverts and manmade structural elements that impede fish passage up to but not including Springwood Road.
2. Add large wood to promote floodplain function, channel complexity, and fish habitat per approved plans.
3. Replant wetland and riparian areas with native vegetation per the Clean Water Service's standards for erosion control and revegetation.
4. Install sediment trapping devices and bioswales to treat runoff from Scholls Ferry Road and upstream sources, along upland portions of Hiteon Creek between Scholls Ferry and Springwood Roads per approved plans.

Clean Water Services Project Manager is Peter Guillozet and Tigard's Project Manager is Carla Staedter.

C. CLEAN WATER SERVICES OBLIGATIONS

Clean Water Services will manage the project by completing the following activities:

1. Secure approval of all enhancement activities with Clean Water Services Development Review, Division of State Lands, Corps of Engineers, Oregon Department of Fish and Wildlife, and other state and federal regulators as necessary.
2. Gather and deliver all project supplies including equipment (crew truck, dump truck, excavator, skid steer, and back hoe), rock, wood, fabric, and plant materials.
3. Coordinate Clean Water Services' and Tigard field crews who will complete the construction aspects of the projects. Provide expert training and advice on stream enhancement, in-stream water work techniques, and culvert installation for optimal fish passage (with Oregon Department of Fish and Wildlife assistance).
4. Coordinate the contractors who will complete the revegetation and vegetation maintenance of the Fanno project.
5. Monitor and maintain the Fanno Creek project site until it becomes fully established.
6. Communicate and coordinate with Tigard Project Manager on all aspects of the projects.

D. TIGARD OBLIGATIONS

Tigard will manage the project by completing the following activities:

1. Secure all necessary permits for the projects through the Tigard land use process by May 1, 2006.
2. Prepare and distribute notice to affected neighbors. Respond to public calls regarding the projects. Post signage regarding the project along the trail route. Close and/or

manage the trail accesses for the duration of the project to maximize the safety of citizens and staff.

3. Provide a Tigard field construction crew (up to three staff) and equipment (dump truck, backhoes, misc tools) for up to a month to work with Clean Water Services crews to implement the construction elements of the projects. The activities will provide hands-on training in stream enhancement and fish passable culvert installation.
4. Coordinate the contractors who will complete the revegetation and vegetation maintenance of the Hiteon creek project.
5. Monitor and maintain the Hiteon creek project site until it becomes fully established.
6. Communicate and coordinate with Clean Water Services Project Manager on all aspects of the project.

E. COMPENSATION

As a partnership project there will be no compensation required for this project. Each entity will provide in-kind services as noted above. Costs for project services will be tracked by each entity and shared at the end of the project to account for the total project costs.

F. GENERAL TERMS

1. Laws and Regulations. Tigard and Clean Water Services agree to abide by all applicable laws and regulations.
2. Term of this Agreement. This agreement is effective from the date of execution by both parties and shall remain in effect until the project is complete and the parties obligations have been fully performed.
3. Indemnification. Within the limits of the Oregon Tort Claims Act, codified at ORS 30.260 through 30.300, each of the parties shall indemnify and defend the others and their officers, employees, agents, and representatives from and against all claims, demands, penalties, and causes of action of any kind or character relating to or arising from this Agreement (including the cost of defense thereof, including attorney fees) in favor of any person on account of personal injury, death, damage to property, or violation of law, which arises out of, or results from, the negligent or other legally culpable acts or omissions of the indemnitor, its employees, agents, contractors or representatives.
4. Integration. This document constitutes the entire agreement between the parties on the subject matter hereof and supersedes all prior or contemporaneous written or oral understandings, representations or communications of every kind on the subject. No course of dealing between the parties and no usage of trade shall be

relevant to supplement any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement and no waiver by a party of any right under this agreement shall prejudice the waiving party's exercise of the right in the future.

5. Amendments/Waivers. No waiver of any portion of this agreement and no amendment, modification or alteration of this agreement shall be effective unless in writing and signed by the Tigard authorized representative and Clean Water Services' General Manager or the General Manager's designee.
6. Attorney Fees. If any dispute arises concerning the interpretation or enforcement of this agreement or any issues related to the U.S. Bankruptcy Code (whether or not such issues relate to the terms of this agreement), the prevailing party in any such dispute shall be entitled to recover all of its attorney fees, paralegal fees, costs, disbursements and other expenses from the nonprevailing party, including without limitation those arising before and at any trial, arbitration, bankruptcy, or other proceeding and in any appeal.
7. Termination. This agreement may be terminated immediately by mutual written agreement of both parties, or by either of the parties notifying the other in writing, with the termination being effective in 30 days.
8. Resolution of Disputes. If any dispute arising out of this agreement cannot be resolved by the project managers from each party, the Mayor and Clean Water Service's General Manager will attempt to resolve the issue. If the Mayor and Clean Water Service's General Manager are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs. In the event the dispute is not resolved in mediation, the parties will submit the matter to arbitration. The decision of the arbitrator shall be final, binding and conclusive upon the parties and subject to appeal only as otherwise provided in Oregon law.
9. Interpretation of Agreement.
 - A. This agreement shall not be construed for or against any party by reason of the authorship or alleged authorship of any provision.
 - B. The paragraph headings contained in this agreement are for ease of reference only and shall not be used in constructing or interpreting this agreement.
10. Severability/Survival. If any of the provisions contained in this agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired. All provisions concerning the limitation of

liability, indemnity and conflicts of interest shall survive the termination of this agreement for any cause.

11. Approval Required. This agreement and all amendments shall not be effective until approved by 1) Clean Water Services' General Manager or the General Manager's designee and, when required by applicable Clean Water Services rules, Clean Water Services' Board of Directors and 2) the Tigard City Council.
12. Choice of Law/Venue. This agreement and all rights, obligations and disputes arising out of the agreement shall be governed by Oregon law. All disputes and litigation arising out of this agreement shall be decided by the state courts in Oregon. Venue for all disputes and litigation shall be in Washington County, Oregon.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed the day and year first written above.

CLEAN WATER SERVICES

CITY OF TIGARD, OREGON

By: _____
Bill Gaffi, General Manager

By: _____
Craig Dirksen, Mayor

APPROVED AS TO FORM

APPROVED AS TO FORM

Lisa Hershkey
Clean Water Services Counsel

TIGARD Attorney

AGENDA ITEM # _____
FOR AGENDA OF _____

CITY OF TIGARD, OREGON
LOCAL CONTRACT REVIEW BOARD
AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Award Contract for Audit Services

PREPARED BY: Joe Barrett DEPT HEAD OK RLS CITY MGR OK CP

ISSUE BEFORE THE LOCAL CONTRACT REVIEW BOARD

Shall the Local Contract Review Board award a contract for audit services to Grove, Mueller & Swank, P.C.

STAFF RECOMMENDATION

Staff recommends the contract for audit services be awarded to Grove, Mueller & Swank, P.C.

INFORMATION SUMMARY

This agenda item awards a contract for up to five years to the firm of Grove, Mueller & Swank, P.C. to serve as the City's independent outside auditor. All municipal corporations in the State of Oregon are required to be audited annually under Oregon Revised Statute 297.405. The annual audits are to be conducted in accordance with generally accepted auditing standards. Municipalities contract with certified public accounting firms to conduct these audits under these guidelines. The firm of Pauly, Rogers and Co., P.C. has been the City's auditing firm for the past seven years.

As Tigard's last solicitation for the services was five years ago, staff conducted a formal Request for Proposals in accordance with Tigard's Public Contracting Rules. Four firms submitted proposals in response to the Request for Proposals. The proposing firms, along with their estimated number of hours and proposed first year pricing, were:

<u>Firm</u>	<u>Hours</u>	<u>Amount</u>
1. Merina & Company, LLP	220	\$19,100
2. Pauly, Rogers and Co., P.C.	340	\$23,000
3. Grove, Mueller & Swank, P.C.	240	\$23,500
4. Talbot, Korvola & Warwick, LLP	410	\$43,050

An audit review committee composed of City staff reviewed and graded each proposal based on their qualifications, level of experience, ability, understanding of the issues associated with an audit the size of the City of Tigard's, and compensation as detailed in the Request for Proposals. Staff also interviewed each of the four firms and incorporated the interviews into the criteria scoring matrix. Based upon the criteria scores along with the interviews, the audit review committee has determined Grove, Mueller & Swank would provide the highest quality of services to the City.

OTHER ALTERNATIVES CONSIDERED

1. Direct staff to reject all proposals and issue a revised Request for Proposals.
2. Award contract to alternate firm.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

None.

ATTACHMENT LIST

None.

FISCAL NOTES

The cost for the first year of this agreement is \$23,500. Fees for subsequent years would increase only for the Portland-Metropolitan Consumer Price Index W. The funds for this service are budgeted through the Financial Operations Division.

AGENDA ITEM # _____
FOR AGENDA OF April 11, 2006

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE A Resolution Granting an Exemption from Property Taxes Under Tigard Municipal Code Section 3.50 for Three Non-Profit Low Income Housing Projects Owned and Operated by Community Partners for Affordable Housing (CPAH) and One Housing Project that is Operated by Tualatin Valley Housing Partners (TVHP)

PREPARED BY: Robert Sesnon DEPT HEAD OK Mas CITY MGR OK EAM for CP

ISSUE BEFORE THE COUNCIL

Shall three low-income housing projects owned and operated by the Community Partners for Affordable Housing (CPAH) and one housing project managed and operated by the Tualatin Valley Housing Partners (TVHP) be exempted from City of Tigard property taxation for 2006?

STAFF RECOMMENDATION

Staff recommends approval of this resolution.

INFORMATION SUMMARY

Tigard Municipal Code 3.50 allows certain organizations providing low income housing to be exempted from Tigard property taxation upon application by March 1 of each year and a demonstration of compliance with certain criteria listed in the Code.

Community Partners for Affordable Housing owns and operates Greenburg Oaks (formerly Villa La Paz), located at 11875 SW 91st Avenue in Tigard. Community Partners for Affordable Housing also owns a single family house located at 9330 SW Tangela Ct. in Tigard, and also a low-income housing project on SW Hall Blvd. known as the Village at Washington Square. These projects are operated as low-income housing and meet all criteria listed in the Tigard Municipal Code. Community Partners for Affordable Housing submitted the three applications for exemption from 2006 property taxes on February 10, 2006 which is well within the March 1 deadline. All three properties were exempted from property taxation in 2005.

Tualatin Valley Housing Partners has again applied for the low-income housing tax exemption for the 119-unit Hawthorne Villa, located at 7705 SW Pfaffle Street. The application for exemption was submitted on February 20, 2006, also well within the March 1 deadline. This will be the second year that Tualatin Valley Housing Partners has applied for this exemption.

The applications were reviewed by staff in the City's Community Development Department and found that the requested tax exemptions are consistent with the applicable Tigard Municipal Code and also the adopted City housing policy.

The attached resolution gives consent from the City of Tigard for this tax abatement. Under state law, Community Partners for Affordable Housing and Tualatin Valley Housing Partners must receive similar approval from jurisdictions accounting for 51% (or more) of the total property taxes to be levied on these properties. Both organizations will also make application to the other taxing units.

OTHER ALTERNATIVES CONSIDERED

Do not approve this tax exemption.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

Vision Statement:

Growth and Growth Management

Goals:

- #3) Encourage affordable housing development through public/private partnerships.
- #4) Distribute affordable housing throughout the community where it is close to services and transportation.

ATTACHMENT LIST

Resolution

Three applications from Community Partners for Affordable Housing.

One application from Tualatin Valley Housing Partners.

Memo from Duane Roberts regarding CPAH's and TVHP's applications meeting Tigard Municipal Code criteria.

FISCAL NOTES

The estimated assessed value of the four properties and the estimated impact of an exemption from City of Tigard property taxes are shown below:

Property	Estimated Assessed Value *	City of Tigard Tax Rate Including Bond Levy)	City of Tigard Property Tax Impact (Estimated)	Total Tax Rate	Total Property Tax Impact
Village at Washington Square	\$2,510,190	\$2.7154/\$1,000	\$6,816	\$16.3448/\$1,000	\$41,029
Single Family Home – 9330 SW Tangela Ct.	\$171,051	\$2.7154/\$1,000	\$465	\$16.3448/\$1,000	\$2,796
Greenburg Oaks	\$2,919,583	\$2.7154/\$1,000	\$7,928	\$16.3448/\$1,000	\$47,720
Hawthorne Villa	\$2,351,748	\$2.7154/\$1,000	\$6,386	\$16.3448/\$1,000	\$38,439
Total Impact			\$21,595		\$129,984

*Because these properties have been exempted from property taxation in the past, Washington County does not show a current assessed value. This figure is an estimated value.

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 06-_____

A RESOLUTION GRANTING AN EXEMPTION FROM PROPERTY TAXES UNDER TIGARD MUNICIPAL CODE SECTION 3.50 FOR THREE NON-PROFIT LOW INCOME HOUSING PROJECTS OWNED AND OPERATED BY COMMUNITY PARTNERS FOR AFFORDABLE HOUSING (CPAH) AND ONE HOUSING PROJECT THAT IS OPERATED BY TUALATIN VALLEY HOUSING PARTNERS (TVHP).

WHEREAS, Tigard Municipal Code section 3.50 provides procedures for application and consideration of non-profit corporation low income housing project exemptions from property taxes; and

WHEREAS, the code requires applications for exemption be filed with the City by March 1; and

WHEREAS, Community Partners for Affordable Housing (CPAH), a qualified non-profit corporation, filed a request dated February 10, 2006 for exemption from property taxes under TMC 3.50 for three low income housing projects and meets all the applicable criteria for exemption; and

WHEREAS, Tualatin Valley Housing Partners (TVHP), a qualified Non Profit Corporation, filed a request dated February 20, 2006 for exemption from property taxes under TMC 3.50 for one low income housing project; and

WHEREAS, Tualatin Valley Housing Partners (TVHP), a qualified Non Profit Corporation, filed a request dated February 20, 2006 for exemption from property taxes under TMC 3.50 for one low income housing project; and

WHEREAS, upon review of the applications it was found that granting the exceptions would be consistent with the applicable Tigard Municipal Code and also with the adopted City housing policies.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The applicant, Community Partners for Affordable Housing, qualified for the exemption set forth in Tigard Municipal Code section 3.50.

SECTION 2: The applicant, Tualatin Valley Housing Partners, qualified for the exemption set forth in Tigard Municipal Code section 3.50.

SECTION 3: The Finance Director is directed to certify to the Assessor of Washington County that the City of Tigard agrees to the abatement of property taxes for the following four properties:

- a. Village at Washington Square, 11157 – 11163 SW Hall Blvd., Tigard
- b. Single family house located at 9330 SW Tangela Ct., Tigard
- c. Greenburg Oaks, 11875 SW 91st Ave., Tigard
- d. Hawthorne Villa, 7705 SW Pfaffle Street, Tigard

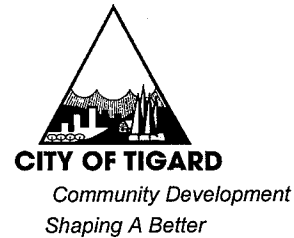
SECTION 4: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2006.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard



Community

MEMORANDUM

CITY OF TIGARD

TO: Tom Imdieke
FROM: Duane Roberts
DATE: 2/28/06
SUBJECT: Applications for Tax Abatement

The Tigard-based Community Partners for Affordable Housing (CPAH) has submitted separate applications for low-income housing tax exemptions for three properties it owns and manages inside the City. The three include the 26-unit Village at Washington Square, the 84-unit Greenburg Oaks (formerly, Villa La Paz), and a four-bedroom single family house located two blocks from the Greenburg Oaks units.

TMC 3.50.020, "Nonprofit corporation low income housing; exempt criteria", provide standards for considering exemption requests. These criteria and whether and how the CPAH applications meet each criterion are reviewed below.

1. The property is owned or being purchased by a corporation that is exempt from income taxes under section 501(c) (3) or (4) of the Internal revenue Code . . .

A copy of an Internal Revenue Service letter, dated March 11, 1999, verifies that CPAH qualifies as a 501(c) organization.

2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific,

literary or educational purposes or to the State of Oregon.

The list of submittal requirements under TMC 3.50.040 does not include any reference to information on asset liquidation, and the CPAH applications do not contain any such information. The director has verbally confirmed to staff that the organization's incorporation papers do, if fact, include a provision of this kind.

3. The property is occupied by low income persons.

The TMC defines low income as household income at or below 60% of area median. According to the CPAH submittals, in the case of all three of its projects, tenant income is verified upon application and is re-certified on an annual basis. Household income at or below 60% of median is the cut-off for continued eligibility. Within each of its applications, CPAN certifies that all residents served by the three properties in question earn at or below the 60% level.

4. The property or portion of the property receiving the exemption, is actually and exclusively used for the purposes described in section 501 (c) (3) or (4) of the Internal Revenue Code . . .

The applications certify and a staff visit to the two apartment complexes confirms that all the property is exclusively used for the intended purposes.

5. The exemption has been approved as provided in section 3.50.050

This criterion relates to the required City process for handling exemption requests.

Conclusion:

CPAH-owned properties have qualified for tax abatement each year since 1996. According to the applications submitted for FY 06/07 abatement, no change in circumstances have occurred that would disqualify the non-profit housing provider from continuing to receive the exemption.

The "Affordable Housing Program", adopted 9/03 as "a complete and official statement of the City's overall affordable housing program", includes tax abatement as one of the City's strategies for facilitating affordable housing in the community. Its purpose is to allow the operators of low-income housing to decrease annual operating expenses, thereby allowing them to serve lower-income households. As such, granting the exceptions to CPAH would be consistent with the applicable TMC standards and also with adopted City housing policies.

COMMUNITY PARTNERS

FOR AFFORDABLE HOUSING, INC.



PO Box 23206 • Tigard OR 97281-3206 • Tel:503.968.2724 • Fax:503.598.8923 • www.cpahinc.org • info@cpahinc.org

City of Tigard

Application for Tax Abatement

February 10, 2006

Village at Washington Square

11157-11163 SW Hall Boulevard, Tigard

A. Property Description

B. Project's Charitable Purpose

C. Certification of Resident Income Levels

D. How Tax Exemption Will Benefit Residents

E. Tax Exempt Status

F. Verification of Information

G. IRS Letter

A. Property Description

Village at Washington Square is located at 11157-11163 SW Hall Boulevard, between SW Spruce and SW Pfaffle in Tigard. The site is located within the Washington Square Regional Center and is proximate to many employment opportunities as well as public transportation and other services. The Village at Washington Square includes three residential buildings with a total of 26 dwelling units, and a community building, all arranged around a central courtyard/play yard. The project includes one studio, seven one-bedroom, five two-bedroom, seven three-bedroom and six four-bedroom units. Eleven of the units are traditional apartments, while the other 15 are townhouse style homes with entrances on the second floor. The project includes a small green space with benches, a path and a butterfly garden. The total site sits on .84 acres.

Legal Description: Partition Plat 1998-038, Lot 1 and Partition Plat 1998-038, Lot 2 in the City of Tigard, County of Washington, State of Oregon

Tax Lot: 1S135DA (04600 & 04700)

B. Project's Charitable Purpose

The mission of Community Partners for Affordable Housing, Inc. (CPAH) is to promote a healthy community through the development of: permanent affordable housing, sustainable economic growth, and community-based partnerships.

The Village at Washington Square was the first addition of affordable units to the Tigard housing stock in a decade. The 26 units are priced to be affordable to very low-, low- and moderate-income residents on effectively a permanent basis. CPAH has entered into covenants with the state and Washington County to preserve The Village at Washington Square as affordable housing for a minimum of sixty (60) years. These covenants are recorded with the title of the property and require that rents will be affordable to households at 30%, 45% and 60% of area median income and significantly below market rents. Half of the units are three and four bedroom units to allow us to serve large low-income families who have often been unable to find larger, affordable units in Tigard.

CPAH maintains active partnerships with the Tigard Police Department, Tualatin Valley Fire & Rescue, Tigard Libraries, and the Tigard School District to enhance the safety and quality of life for residents and to be sure that our programs are well-coordinated with other community resources. CPAH works closely with Community Action and other agencies to provide information and referral as well as emergency services like food boxes and rent and utility assistance. Coordination agreements with social service programs such as HopeSpring (a partnership of Lutheran Family Services, Centers, Community Action Organization, Good Neighbor Center, Luke-Dorf, and Lifeworks, NW enhance ongoing case management and link stable housing with successful program outcomes.

The Community Center at The Village at Washington Square is the focal point of the support, skill building, and community building activities offered by CPAH through its resident services programs. CPAH's on-site three-computer learning center is used by youth for homework, research, e-mail, and educational games; and by adults for job search activities and Internet access.

CPAH offers a variety of adult services as well. These include Neighborhood Watch, classes in support of parenting skills, budgeting and other financial literacy skills, and nutritional shopping and cooking. The center is also host to weekly HopeSpring self-sufficiency classes.

The Village at Washington Square is located within a census tract (309) which has a higher than average concentration of low-income rental households. The number of residents without a high school diploma is notably higher than for Tigard as a whole (15% vs. 9%). This area boasted the second highest concentration of children under 9 of the eight census tracts in Tigard. While this area represents 9% of Tigard's population base, it is home to nearly 16% of the city's minority households.

C. Certification of Resident Income Levels

Resident income levels are verified upon application for tenancy. Residents may remain in their units as long as they income qualify at entry. Rents are well below the market for the area. We certify that all residents served by this property earned at or below 60% of the AMI. Compliance with income restriction requirements is audited annually by the State of Oregon Department of Housing and Community Services, Washington County Office of Community Development, and by our limited partner investor, Key Bank.

D. How Tax Exemption Will Benefit Residents

100% of the property tax exemption is a direct subsidy for the residents. Every dollar reduction in operating costs is passed on as a reduction in the scheduled rents. Some costs, such as the cost of operating our youth programs, must be funded from outside sources. Without property tax abatement, we would have to shift some of our fundraising efforts from developing sources for these programs and use them instead to cover basic operations.

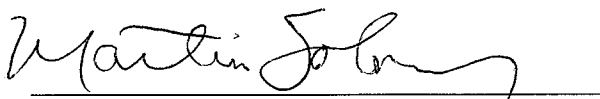
It can be argued that using property tax revenues to subsidize well managed affordable housing units results in a net savings of public resources. Fewer and less-severe police calls, healthier students, and stably housed social service consumers, all provide a direct reduction in the demand for government funded services.

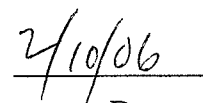
E. Tax Exempt Status

CPAH is the general partner of the Village at Washington Square Limited Partnership, a single asset nonprofit corporation. CPAH's IRS Determination Letter is attached. CPAH undergoes full audit of its books annually, as does the Village at Washington Square. The State of Oregon Housing and Community Services Department and the U.S. Department of Housing and Urban Development review the project and resident files annually.

F. Verification of Information

I hereby certify that the information in this application for tax abatement is accurate and complete to the best of my knowledge. Income Property Management Company performs day-to-day management of the property and is responsible for certifying income levels of each resident for compliance with program guidelines.


Martin Soloway, Deputy Director, Housing


Date

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

MAR 11 1995

COMMUNITY PARTNERS FOR AFFORDABLE
HOUSING
PO BOX 23206
TIGARD, OR 97281-3206

Employer Identification Number:
93-1155559

DLN:

17053030720009

Contact Person:

THOMAS E O'BRIEN

ID# 31187

Contact Telephone Number:

(877) 829-5500

Our Letter Dated:

February 1995

Addendum Applies:

No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

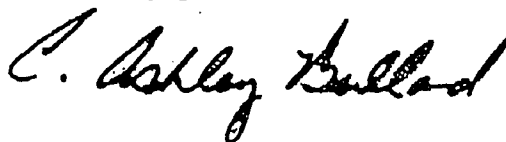
Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



District Director

Letter 1050 (DO/CG)



City of Tigard

Application for Tax Abatement

February 10, 2006

Tangela Single Family Rental Home
9330 SW Tangela

A. Property Description

B. Project's Charitable Purpose

C. Certification of Resident Income Levels

D. How Tax Exemption Will Benefit Residents

E. Tax Exempt Status

F. Verification of Information

G. IRS Letter

A. Property Description

Community Partners for Affordable Housing, Inc. acquired the single family "Tangela House" at 9330 SW Tangela in Tigard, on December 31, 1999, with assistance from the Washington County CDBG program and a loan from Washington Mutual Savings Bank. It is located just two blocks from CPAH's largest multifamily project, Greenburg Oaks (formerly Villa La Paz).

The two story 1,916 square foot house sits on a 5,450 square foot lot and is zoned R-7 residential. CPAH converted an upstairs bonus room into a 5th bedroom and completed other necessary repairs after initial acquisition.

Legal Description: Barbee Court, Lot 1, Tigard, County of Washington, State of Oregon.

Tax Lot: 1S135DC-05300.

B. Project's Charitable Purpose

The mission of Community Partners for Affordable Housing, Inc. (CPAH) is to promote a healthy community through the development of: permanent affordable housing, sustainable economic growth, and community-based partnerships.

CPAH acquired the four-bedroom single family home in order to assist the County and the Good Neighbor Center Shelter in meeting a "replacement unit" requirement triggered by the Uniform Relocation Act when the shelter acquired its current site and demolished a single family home housing a low-income family. CPAH completed needed repairs and upgraded the home to a five-bedroom dwelling, in order to provide a rare opportunity in our community — an affordable single-family rental house for a very large family. The current residents have been stably housed for more than three years, providing a home setting in a quiet residential neighborhood for this family to grow up in.

The home is proximate to CPAH's Greenburg Oaks property, where management and resident services are available. The residents of this home are very low-income and eligible for services CPAH offers and coordinates. These services include a computer center, community room, neighborhood watch, Individual Development Account grants, and other programs. The resident services coordinator and property management staff visit the home on a regular basis to ensure that the property is well managed and to maintain an ongoing relationship with the residents.

The home is located within a census tract (309) which has a higher than average concentration of low-income rental households. The number of residents without a high school diploma is notably higher than for Tigard as a whole (15% vs. 9%). This area boasted the second highest concentration of children under 9 of the eight census tracts in Tigard. While this area represents 9% of Tigard's population base, it is home to nearly 16% of the city's minority households.

C. Certification of Resident Income Levels

Resident income level is verified upon application, and must be less than 60% of the area's median income. Income is recertified annually. The current tenant holds a Section 8 certificate and is also recertified by the Housing Authority of Washington County for continuing

qualification for that program. We certify that all residents served by this property earned at or below 60% of the AMI.

D. How Tax Exemption Will Benefit Residents

100% of the property tax exemption is passed on as a direct subsidy for the residents. Every dollar reduction in operating costs results in a reduction in the scheduled rents. Some costs, such as the cost of operating our youth programs, must be funded from outside sources. Without property tax abatement, we would have to shift some of our fundraising efforts from developing sources for these programs and use them instead to cover basic operations.

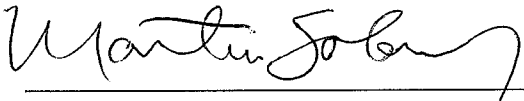
It can be argued that using property tax revenues to subsidize well managed affordable housing units results in a net savings of public resources. Fewer and less-severe police calls, healthier students, and stably housed social service consumers, all provide a direct reduction in the demand for government funded services.

E. Tax Exempt Status

CPAH is direct owner of the Tangela property and is a nonprofit 501(c)(3) organization. Our operations are audited annually to, among other things, confirm that we are in compliance with our charitable status and with requirements of the County grant and Washington Mutual loan documents.

Verification of Information

I hereby certify that the information in this application for tax abatement is accurate and complete to the best of my knowledge. Income Property Management Company performs day-to-day management of the property and is responsible for certifying income levels of each resident for compliance with program guidelines.



Martin Soloway, Deputy Director, Housing

2/10/06
Date

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

MAR 11 1995

COMMUNITY PARTNERS FOR AFFORDABLE
HOUSING
PO BOX 23206
TIGARD, OR 97281-3206

Employer Identification Number:
93-1155559

DLN:

17053030720009

Contact Person:

THOMAS E O'BRIEN

ID# 31187

Contact Telephone Number:
(877) 829-5500

Our Letter Dated:
February 1995

Addendum Applies:
No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

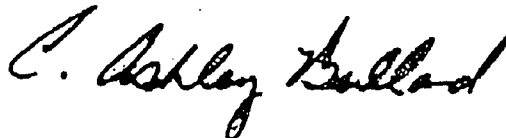
Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



District Director

Letter 1050 (DO/CG)



City of Tigard

Application for Tax Abatement

February 16, 2005

Greenburg Oaks (formerly Villa La Paz) Apartments
11875 SW 91st Avenue, Tigard

A. Property Description

B. Project's Charitable Purpose
--

C. Certification of Resident Income Levels

D. How Tax Exemption Will Benefit Residents
--

E. Tax Exempt Status

F. Verification of Information

G. IRS Letter

A. Property Description

Greenburg Oaks Apartments (Tax account # R-276472), 11895 SW 91st Avenue, is just off Greenburg Road and Pacific Highway. The complex consists of 84 units in four buildings: 12 one-bedroom/one-bath 564 square foot units, 60 two-bedroom/one-bath 839 square foot units, and 12 three-bedroom/one-bath 1,007 square foot units. In 1998, CPAH added a community facility to the complex. The center houses a computer center, library, multipurpose room and property management office. The site sits on 3.01 acres.

Legal Description: The site is located in the southeast ¼ of Section 35, Township 1 South, Range 1 West (Willamette Meridian).

Tax Lot: The Washington County Map shows the site as tax lot 23-74-2000, Parcels I, II, and III.

B. Project's Charitable Purpose

The mission of Community Partners for Affordable Housing, Inc. (CPAH) is to promote a healthy community through the development of: permanent affordable housing, sustainable economic growth, and community-based partnerships.

CPAH's acquisition and renovation of the complex has ensured that the previously neglected property has been professionally managed as safe, decent, and affordable housing for families with a shrinking number of housing options. Our property has significantly reduced the housing burdens of our families. The efficient delivery of our services has improved the health and prospects of all household members, and served to break the multi-generational cycles of poverty. CPAH's commitment to 40 years of affordability for those at 50 and 60% of median income guarantees that these apartments will be affordable effectively for the life of the buildings.

CPAH maintains active partnerships with the Tigard Police Department, Tualatin Valley Fire & Rescue, Tigard Libraries, and the Tigard School District to enhance the safety and quality of life for residents and to be sure that our programs are well-coordinated with other community resources. Partnerships with Community Action Organization/Neighborshare and Portland General Electric for significant weatherization improvements have resulted in reduced utility bills for families residing in the complex. CPAH works closely with Community Action and other organizations to provide information and referral as well as emergency services like food boxes and rent and utility assistance. Coordination agreements with social service programs such as HopeSpring (a partnership of Lutheran Family Services, Centers, Community Action Organization, Good Neighbor Center, Luke-Dorf, and Lifeworks NW enhance ongoing case management and link stable housing with successful program outcomes.

The Community Center at Greenburg Oaks is the focal point of the support, skill building, and community building activities offered by CPAH through its resident services programs. CPAH's on-site six-computer learning center is used by youth for homework, research, e-mail, and educational games; and by adults for job search activities and Internet access. The Tigard Library has twice obtained grant resources to purchase children's material for our on-site library.

In the past year, CPAH has offered a variety of adult services as well. These include classes in support of parenting skills, budgeting and other financial literacy skills, and nutritional shopping

and cooking. The community center is also host to a number of general community activities including rent readiness courses, Hopespring parenting classes, financial literacy classes, parenting safety skills and budget and nutrition classes. The community center hosts weekly meetings for AA, NA, and Alanon groups.

The project is in the middle of a \$3.35 million dollar rehabilitation project. Key elements of this project include:

Interior: Replacement of all kitchen and bathroom cabinets and countertops, sinks, faucets, toilets, and garbage disposals. New toilets are water conserving style. Appliances and water heaters replaced with new Energy Star equipment. New showers and tub surrounds. Many apartments will receive new carpet and flooring. Full texture and paint in all apartments. Replace all light fixtures with energy efficient styles. New vented windows and window coverings. Upgrade and enhancement of ventilation system to improve air quality and reduce dampness. All drain and water lines replaced with new.

Exterior: Replace all building stucco with cement board siding, new windows, flashing and rain screen to state of the art weather proofing and water control. Remove out-dated and decaying carports. Repaint all exteriors, including the community building. Create ADA accessible routes to all project amenities. Create new recreation area with basketball court. Renew and upgrade site landscaping for sustainability and water efficiency. Reconfigure parking lot, landscaping areas, sidewalks, and site lighting to improve safety, appearance, and useability. Add public area amenities such as benches and paved areas to improve social interaction.

This project began in August 2005 and is scheduled for completion in May 2006. Financing for the project was done with a number of public and private grants and low income housing tax credit investments. In an effort to maintain project operating costs as low as possible, no new debt was taken on. Approximately \$10,000 of the funding was provided through the City of Tigard Affordable Housing Fee Assistance program. Other funding came from the Meyer Memorial Trust, the Paul Allen Foundation, the Oregon Community Foundation, Washington County Office of Community Development, and the State of Oregon. Key Bank increased its investment by over \$2 million dollars.

The rehab project was designed to extend the functional life of this project by at least 30 years. The affordable rents covenant with the state was extended for another 40 years. No households have been displaced as a result of the rehab. Rents at the project will remain affordable to households earning 50% of less of the area median income.

C. Certification of Resident Income Levels

Resident income levels are verified upon application for tenancy and are recertified each year. CPAH has covenants with the state and with Washington County to use the property exclusively for low income rentals for a period of at least 40 years. These covenants require that all households have earnings at or below 60% of the area median income. Some units are restricted to households earning at or below 50%. Compliance with these covenants is monitored by the State of Oregon Department of Housing and Community Services and by the Washington County Office of Community Development. We certify that all residents served by this property earned at or below 60% of the Area Median Income.

D. How Tax Exemption Will Benefit Residents

100% of the property tax exemption is a direct subsidy for the residents. Every dollar reduction in operating costs is passed on as a reduction in the scheduled rents. Some costs, such as the cost of operating our youth programs, must be funded from outside sources. Without property tax abatement, we would have to shift some of our fundraising efforts from developing sources for these programs and use them instead to cover basic operations.

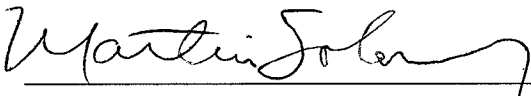
It can be argued that using property tax revenues to subsidize well managed affordable housing units results in a net savings of public resources. Fewer and less-severe police calls, healthier students, and stably housed social service consumers, all provide a direct reduction in the demand for government funded services.

E. Tax Exempt Status

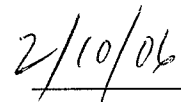
CPAH is general partner of the Villa La Paz Limited Partnership, a single asset entity established for the purpose of acquiring the apartments and qualifying for low-income housing tax credits. CPAH's IRS Determination Letter is attached. CPAH undergoes a full audit of its books annually, as does Greenburg Oaks. Both the State of Oregon Housing and Community Services Department and the U.S. Department of Housing and Urban Development review the project and resident files annually.

F. Verification of Information

I hereby certify that the information in this application for tax abatement is accurate and complete to the best of my knowledge. Income Property Management Company performs day-to-day management of the property and is responsible for certifying income levels of each resident for compliance with program guidelines.



Martin Soloway, Deputy Director, Housing



Date

INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date:

MAR 11 1995

COMMUNITY PARTNERS FOR AFFORDABLE
HOUSING
PO BOX 23206
TIGARD, OR 97281-3206

Employer Identification Number:
93-1155559

DLN:

17053030720009

Contact Person:

THOMAS E O'BRIEN

ID# 31187

Contact Telephone Number:
(877) 829-5500

Our Letter Dated:
February 1995

Addendum Applies:
No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

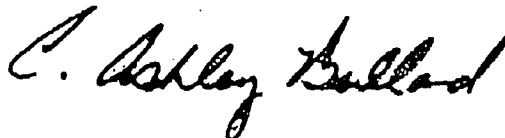
Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



District Director



MEMORANDUM

CITY OF TIGARD

TO: Tom Imdieke
FROM: Duane Roberts
DATE: 3/7/06
SUBJECT: Applications for Tax Abatement

The Beaverton-based Tualatin Valley Housing Partners (TVHP) has submitted an application for a City low-income housing tax exemption for the 119-unit Hawthorne Villa, located at 7705 SW Pfaffle Street in the incorporated Metzger area.

TMC 3.50.020, "Nonprofit corporation low income housing; exempt criteria", provides five standards for considering exemption requests. Whether and how the TVHP application meets each of these five is reviewed below.

1. The property is owned or being purchased by a corporation that is exempt from income taxes under section 501(c) (3) or (4) of the Internal revenue Code . . .

A copy of an Internal Revenue Service letter, dated March 14, 2005, verifies that TVHP qualifies as a 501(c) organization. According to a copy of a letter dated June 23, 2005, TVHP is the "Managing General Partner" for the property in question.

2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.

The list of submittal requirements under TMC 3.50.040 does not include any reference to information on asset liquidation, and the TVHP application does not

contain any such information. Tom Benjamin, TVHP Executive Director, verbally has advised staff that the organization's incorporation papers assign the organizations assets, upon liquidation, to a 501(c) 3 non-profit, engaged in activities similar to those of TVHP.

3. The property is occupied by low income persons.

The TMC defines low income as household income at or below 60% of area median. According to the TVHP Executive Director, tenant income is verified upon application and is re-certified on an annual basis. Household income at or below 60% of median is the cut-off for new and continued rental unit occupancy. Many of the Hawthorne Villa tenants are "case managed", or current clients of public and non-profit social service providers.

4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in section 501 (c) (3) or (4) of the Internal Revenue Code . . .

The application certifies that the Hawthorne Villa complex is exclusively used for the intend purpose of providing affordable housing to income restricted households.

5. The exemption has been approved as provided in section 3.50.050

This criterion relates to the required City process for handling exemption requests.

Conclusion:

TVHP was established some years ago by the County Community Action Agency. Hawthorne Villa was the agency's first project. This is the second year that TVHP has applied to the City for tax abatement. The request meets all of the qualifying criteria established in TMC 3.50.020.

The "Affordable Housing Program", adopted in 9/03 as "a complete and official statement of the City's overall affordable housing program", includes tax abatement as one of the City's strategies for facilitating affordable housing in the community. Its purpose is to allow the operators of low-income housing to decrease annual operating expenses, thereby allowing them to serve lower-income households. Granting the requested tax exemption to TVHP would be consistent with the applicable TMC standards and also with the adopted City housing policy.



Tualatin Valley Housing Partners

*A Community Development Corporation
Serving Washington County*

February 20, 2006

Mr. Tom Imdieke
City of Tigard - Finance Department
13125 SW Hall Boulevard
Tigard, OR 97223

Re: Hawthorne Villa Apartments
Annual Application for Property Tax Exemption

Dear Mr. Imdieke:

Enclosed is the annual application for property tax exemption for Hawthorne Villa Apartments, pursuant to Chapter 3.50 of the Tigard Municipal Code. This property was first approved for exemption by Tigard City Council Resolution No. 05-26 in April 2005, as well as the Tigard-Tualatin School District in June 2005.

Since being appointed as the Managing General Partner of this 119-unit low-income housing tax credit project last year, TVHP has proactively worked to improve property operations and expand community outreach efforts to low-income residents in the community. In October 2005, we hosted HandsOn Portland, local Comcast employees, and residents to provide a day of community service work to enhance the property's curb appeal. A Resident Services Coordinator was placed on-site to interact with residents and develop tenant-appropriate services, and we are in the process of converting a single-family home (previously housing for the resident manager) into a community building from which to operate these programs.

Please feel free to contact me if you have any questions concerning the application, or if you require additional documentation.

Sincerely,

Rhonda L. Brown
Development Coordinator
r.brown@integra.net

Application for property tax exemption under Chapter 3.50 of the Tigard Municipal Code.

1. Description of the property:

- a. Legal owner: Hawthorne Villa Limited Partnership
- b. Tax account number: R282429
- c. Address: 7705 SW Pfaffle, Tigard 97223
- d. Date partnership formed: 1996
- e. Original funding source: Tax exempt bonds and 4% tax credits
- f. Managing General Partner: Tualatin Valley Housing Partners
6160 SW Main
Beaverton, OR 97008
- General Partner: Hawthorne Associates Limited Partnership
c/o PNC MultiFamily Capital
121 SW Morrison, Suite 1300
Portland, OR 97204-3635
- g. Type of use: 119 multi-family rental apartments consisting of 30 studios, 83 one-bedroom, 5 two-bedroom, and 1 house (used as community center for resident services programs)

2. Charitable purpose:

100% of the units are rent-restricted by the investor, lender, and State of Oregon (with a restrictive covenant recorded on the deed) to residents earning less than 60% of the Portland area median income (AMI). However, a majority of the tenants at Hawthorne Villa frequently fall well below this income restriction.

The maximum rental rates that may be charged are limited to 30% of the income of a family earning 60% of AMI. Rental rate maximums are set annually by HUD.

TVHP's mission is:

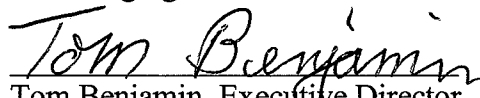
Tualatin Valley Housing Partners promotes self-sufficiency through affordable housing for low and moderate income people throughout the Tualatin Valley. We accomplish our mission by meeting our objectives:

- Acquiring, renovating & preserving existing affordable housing
 - Building partnerships with for-profit, non-profit & public sector entities in developing new affordable housing
 - Creating computer centers that provide residents with increased access to information & job skills
 - Design housing sited to increase access to job opportunities & services via public transportation
 - Expand on-site resident-centered services that increase access to community resources
3. TVHP hereby certifies that all of the residents at Hawthorne Villa meet the requirement of IRS Section 42 income restrictions for projects limited to those earning 60% or less of Area Median Income.
4. Resident benefits of the property tax exemption:
- Ongoing tax exemptions will contribute to more efficient property operations and continued affordable housing by:
- a) reducing or eliminating annual rent increases that are often necessary to avoid/offset increasing property operating costs and deficits.
 - b) stabilization of the tenant population by enabling continued residency for those who could not afford significant rent increases
 - c) being able to deliver resident services programs
5. A copy of the IRS 501 (c) (3) exemption is attached.

I hereby certify that the above information is correct.

Hawthorne Villa Limited Partnership

By: Tualatin Valley Housing Partners,
its Managing General Partner


Tom Benjamin, Executive Director



Phone: (503) 986-2200
Fax: (503) 378-4381

Amendment/Restatement/Cancellation—Limited Partnership

Secretary of State
Corporation Division
255 Capitol St. NE, Suite 151
Salem, OR 97310-1327
FilingInOregon.com

Check the appropriate box below:

- ☒ AMENDMENT OR RESTATEMENT
(Complete only 1, 2, 7, 8)
☐ CERTIFICATE OF CANCELLATION
(Complete only 1, 3, 4, 5, 6, 7, 8)

REGISTRY NUMBER: 506744-81

In accordance with Oregon Revised Statute 192.410-192.490, the information on this application is public record.
We must release this information to all parties upon request and it will be posted on our website.

For office use only

Please Type or Print Legibly in Black Ink. Attach Additional Sheet if Necessary.

1) NAME Hawthorne Villa Limited Partnership

AMENDMENT OR RESTATEMENT

2) THE FOLLOWING AMENDMENT(S) TO THE CERTIFICATE OF LIMITED PARTNERSHIP IS MADE (STATE THE SECTION NUMBER(S) AND SET FORTH THE ENTIRE SECTION(S) AS IT IS AMENDED TO READ, OR ATTACH A COPY OF THE ENTIRE RESTATED CERTIFICATE OF LIMITED PARTNERSHIP.)

Section 6 of the Certificate of Limited Partnership is hereby amended by adding the following language:

Effective June 30, 2005, Tualatin Valley Housing Partners (TVHP) is hereby appointed the Managing General Partner and shall exercise all the rights, powers and obligations of the General Partner.

CERTIFICATE OF CANCELLATION

3) EFFECTIVE DATE OF CANCELLATION _____
(If none is stated, the effective date will be the date filed by the Corporation Division.)

COMPLETE SECTION 4, 5, OR 6 BELOW.

4) REASON FOR FILING CERTIFICATE OF CANCELLATION _____

5) THIS LIMITED PARTNERSHIP WAS CONVERTED TO A PARTNERSHIP. THE NAME OF THE PARTNERSHIP IS: _____

6) THIS LIMITED PARTNERSHIP MERGED WITH A PARTNERSHIP OR LIMITED PARTNERSHIP. THE SURVIVOR'S NAME IS: _____

7) EXECUTION (At least one existing general partner and each new general partner must sign.)

Signature

Printed Name

Hawthorne Associates LP - General Partner
Hawthorne Villa GP, Inc., its General Partner
Scott J. Hubbard, Senior Vice President

Tualatin Valley Housing Partners - General Partner
Tom Benjamin, Executive Director

FEES

Required Processing Fee \$50
Confirmation Copy (Optional) \$5

Processing Fees are nonrefundable.

Please make check payable to
"Corporation Division."

NOTE:

Fees may be paid with VISA or MasterCard. The card number and expiration date should be submitted on a separate sheet for your protection.

8) CONTACT NAME (To resolve questions with this filing.)

DAYTIME PHONE NUMBER (Include area code.)

Ron Salgado

(503) 808-1300



June 23, 2005

Mr. Bradley J. Bullock
Executive Vice President
Hawthorne Villa GP, Inc, General Partner
Hawthorne Associates Limited Partnership
121 SW Morrison Street, Suite 1300
Portland, Oregon 97204

Mr. Tom Benjamin
Executive Director
Tualatin Valley Housing Partners
6160 SW Main Avenue
Beaverton, Oregon 97008

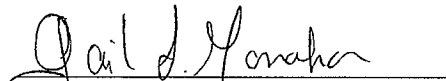
Re: Hawthorne Villa Limited Partnership (the "Partnership")

CONSENT AND ACKNOWLEDGEMENT

Consent and acknowledgement is hereby granted to the designation of Tualatin Valley Housing Partners as the Managing General Partner of the Partnership pursuant to Section 6.10 of the Amended and Restated Agreement of Limited Partnership by Columbia SLP Corporation, the Special Limited Partner of the Partnership.

COLUMBIA HOUSING SLP CORPORATION

By:


Name: Gail L. Monahan
Title: Senior Vice President

HAWTHORNE ASSOCIATES LIMITED PARTNERSHIP

121 SW Morrison Street, Suite 1300

Portland, Oregon 97204

June 23, 2005

Mr. Scott J. Hubbard
Senior Vice President
Columbia Housing Corporation, General Partner
Columbia Housing Partners Corporate Tax Credit III L.P.
121 SW Morrison, Suite 1300
Portland, Oregon 97204

Mr. Tom Benjamin
Executive Director
Tualatin Valley Housing Partners
6160 SW Main Avenue
Beaverton, Oregon 97008

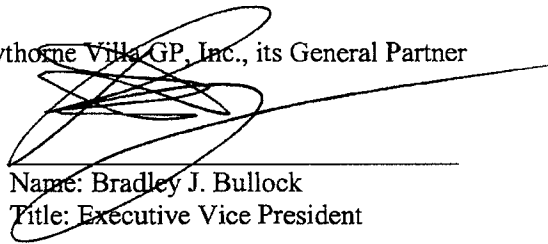
Re: Hawthorne Villa Limited Partnership – Hawthorne Villa Apartments, Tigard, OR

Dear Sirs,

Pursuant to Section 6.10 of the Amended and Restated Agreement of Limited Partnership of Hawthorne Villa Limited Partnership (the "Partnership"), the undersigned hereby designates Tualatin Valley Housing Partners, an Oregon non-profit corporation ("TVHP") as the Managing General Partner as such term is defined in the Partnership Agreement. In accordance with Section 6.10 of the Partnership Agreement, TVHP shall exercise all the rights, powers and obligations ("rights") of the General Partner(s) hereunder, and the other General Partner(s) shall not exercise any such rights while one General Partner is so appointed.

HAWTHORNE ASSOCIATES LIMITED
PARTNERSHIP

By: Hawthorne Villa GP, Inc., its General Partner

By: 
Name: Bradley J. Bullock
Title: Executive Vice President

MAR-14-2005 11:48 T U H P
INTERNAL REVENUE SERVICE
DISTRICT DIRECTOR
P. O. BOX 2508
CINCINNATI, OH 45201

P.02
DEPARTMENT OF THE TREASURY

Date: OCT 07 1998

TUALATIN VALLEY HOUSING PARTNERS
C/O DAN OLEARY
PO BOX 1505
BEAVERTON, OR 97005-1505

Employer Identification Number:
93-1152592
DLN:
17053255759028
Contact Person:
D. A. DOWNING
Contact Telephone Number:
(513) 241-5199
Our Letter Dated:
February 1995
Addendum Applies:
No

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509(a)(1) and 170(b)(1)(A)(vi).

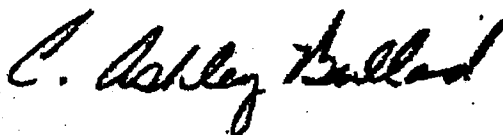
Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509(a)(1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a)(1) organization.

If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,



District Director

Letter 1050 (DO/CG)

AGENDA ITEM # _____
FOR AGENDA OF _____

CITY OF TIGARD, OREGON
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Amend Tigard Municipal Code to Permit Muffled Compression Brakes

PREPARED BY: Tom Coffee DEPT HEAD OK TC CITY MGR OK CR

ISSUE BEFORE THE COUNCIL

Request by Tualatin Valley Fire and Rescue to amend the Tigard Municipal Code to permit muffled compression brakes.

STAFF RECOMMENDATION

Staff recommends adoption of the attached ordinance.

INFORMATION SUMMARY

Section 7.40.170.A of the Tigard Municipal Code currently prohibits the use of exhaust brakes (jake brakes) in the City of Tigard due to the loud noise they produce. Tualatin Valley Fire and Rescue no longer uses the traditional jake brakes and has installed muffled compression brakes on their emergency vehicles. TVF&R has worked with the other cities in their service district to obtain permission to use the muffled compression brakes to save money on vehicle maintenance.

OTHER ALTERNATIVES CONSIDERED

Do not amend the Code.

COUNCIL GOALS AND TIGARD BEYOND TOMORROW VISION STATEMENT

The community residents, business owners, and service providers will understand their roles through effective communications to successfully enhance public safety and emergency services.

ATTACHMENT LIST

Attachment 1: Background Information Provided by TVF&R.

Attachment 2: Proposed Ordinance.

FISCAL NOTES

N/A

Noise & Compression Brake Review

Tualatin Valley Fire & Rescue (TVF&R) conducted a District wide review of compression braking and noise ordinances pertaining to them. Below is a summary (table 1) of that review;

Secondary braking devices are important auxiliary systems that have been adopted as a "best practice" for the trucking industry as well as the fire service. The average gross vehicle weight for a fully equipped engine at Tualatin Valley Fire & Rescue is at, or above 42,000. Increasing weight make even non-emergent braking a significant factor in vehicle interaction on public roadways.

The United States Environmental Protection Agency requires that all heavy-duty trucks, including fire apparatus, emit no more than 80 dB(A) at fifty (50) feet while operating, and that figure includes their compression braking systems. As demonstrated in the review (table 2), TVF&R fire apparatus using muffled compression brakes met that standard and emitted less noise than commonly used gas powered lawn mowers or leaf blowers

The State of Oregon prohibits the use of unmuffled compression braking systems. All TVF&R apparatus come from the manufacturer meeting noise emission standards from the EPA and are muffled compression braking systems.

Tualatin Valley Fire & Rescue deploys their fire units in a dynamic fashion. The result is fire companies normally located outside the City, are on a regular basis, traveling into the city for coverage, public events, etc.

Those units from outside the City of Tigard will use different response routes based on the direction they are entering the city limits. This applies to both emergent and non-emergent travel. . In addition, TVF&R fire apparatus, unlike heavy-duty trucks, are expected to drive on "typical" city streets and must regularly operate in and around normal traffic rather than taking standard truck routes.

Currently four (4) cities served by TVF&R prohibit the use of compression brakes through noise ordinances. Two (3) of those cities provide exemptions in their ordinances for noise associated with public safety work.

Based on the review TVF&R recommends the following exemption to the City of Tigard Code 7.40.150.

.....The following sounds or noise producing actions are to be exempted:

Sounds produced by the performance of public workers, vehicles, or equipment, including police, fire and ambulance.

Table 1

Jurisdiction	Prohibited?	Ordinance/ORS #	Exempt?	Ordinance #
Beaverton	Yes	6.02.215	Yes	4346
King City	No	ORS 811.492	n/a	n/a
Sherwood	Yes	9.52.030, Sect. B1	Yes	9.52.050, Sect. G
Tigard	Yes	7.40.150	No	n/a
Tualatin	No	ORS 811.492	n/a	n/a
West Linn	Yes	5.487	Yes	5.487, #5
Wilsonville	No	ORS 811.492	n/a	n/a
Clackamas County	No	ORS 811.492	n/a	n/a
Washington County	No	ORS 811.492	n/a	n/a

Table 2

Nuisance	Decibel Level (db) at 50'	Source
Chain Saw	110	http://dbw.da.gov
Noisy Motorcycle	100	http://dbw.da.gov
Leaf Blower	94	http://nylon.trashfish.net
Heavy Truck (Semi-Trailer)	90	http://dbw.da.gov
Gas-powered Lawn Mower	90	http://fpl.com
Normal Boat	80	http://dbw.da.gov
Quiet Motorcycle	80	http://dbw.da.gov
TVF&R Fire Apparatus	80	TVF&R Shop
Freeway Traffic	70	http://www.quietsolution.com
Normal Automobile	70	http://dbw.da.gov
Car Engine	70	http://fpl.com

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 06-_____

ATTACHMENT 2

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE SECTION 7.40.170.A TO ALLOW THE USE OF MUFFLED EXHAUST BRAKES ON FIRE FIGHTING APPARATUS

WHEREAS, Tualatin Valley Fire and Rescue (TVF&R) has completed a District-wide review of compression braking, also known as exhaust braking or "jake brakes"; and

WHEREAS, TVF&R apparatus using muffled compression brakes meet noise emission standards from the Environmental Protection Agency (EPA); and

WHEREAS, the Municipal Code exempts sounds caused by emergency work and emergency vehicles from noises standards in Section 7.40.180.B, but specifically prohibits the use of exhaust braking except in an emergency, in Section 7.40.170.A;

WHEREAS, TVF & R has requested clarification of the code to allow TVF&R emergency vehicles to continue to use muffled compression brakes in the City; and

WHEREAS, the Council concludes that the noise from properly muffled compression brakes on emergency vehicles will be at acceptable noise levels,

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code Section 7.40.170.A is amended to read as follows
(**bold underlined** is new language):

A. The use of exhaust brakes (jake brakes), except in an emergency **and except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system**, is prohibited at all times within the City, regardless of noise level.

SECTION 2: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2006.

Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2006.

Craig Dirksen, Mayor

Approved as to form:

City Attorney

Date